

# **EQUAL EMPLOYMENT OPPORTUNITY**

## **EEO ASSURANCES, PART I**

### **EEO CONTRACT COMPLIANCE**

## TABLE OF CONTENTS

	<u>Page</u>
Policy Statement .....	3
I. Organization and Structure .....	3
A. Deputy Director .....	3
B. Chief of Civil Rights .....	3
C. Contract Compliance Officer .....	3
D. District Personnel .....	3
E. Project Personnel .....	4
II. Compliance Procedures .....	4
A. Laws, Rules, Directives .....	4
B. Implementation .....	4
C. Distribution of Reports .....	25
III. Contract Sanctions .....	28
IV. Complaint Procedures .....	29
V. External Training .....	32
A. Training Special Provisions .....	32
B. Training Procedures .....	33
EXHIBITS .....	35

## CONTRACT COMPLIANCE

The Idaho Transportation Department (ITD) will monitor the operations of all construction companies under contract with the Department on Federal Aid (FA) projects to ensure that all aspects of their employment practices do not discriminate on the basis of race, color, religion, sex, national origin or age. The Department will also take appropriate action when contractors are found to be out of compliance with required contract provisions.

### I. Organization and Structure (see **Exhibit A**)

#### A. Deputy Director

The Deputy Director (DDIR) has the responsibility of coordinating and implementing the Contract Compliance Program and ensuring that ITD and construction firms comply with all Civil Rights Special Provisions.

#### B. Chief of Civil Rights

The Chief of Civil Rights (CCR), reports to the DDIR and is responsible for coordinating the activities of the CCO (CCO) and the Resident/Regional Engineers in monitoring contractor operations and practices related to Equal Employment Opportunity (EEO) provisions.

#### C. Contract Compliance Officer

The CCO is responsible for executing the enforcement/compliance activities associated with EEO on construction contracts. In conjunction with District, central office and FHWA Division personnel, the CCO conducts Compliance Reviews, reviews EEO reports, monitors Disadvantaged Business Enterprise activities, prepares ITD reports to FHWA and administers the internal DBE Supportive Service Program. The person in this position is working on External EEO-related activities 100% of the time. The CCO attends courses on EEO programs and requirements (including FHWA-sponsored seminars).

#### D. District Personnel

Each District Engineer has appointed an EEO/Safety Training (EEO/ST) Coordinator or designated District Records Inspector (DRI) through whom information and instruction from the CCO and the CCR are channeled. The District EEO/ST Coordinators devote approximately one-third of their time to Civil Rights-related activities. They participate in on-site inspections to assist the Resident/Regional Engineer in determining contractor compliance under all relevant rules and regulations. They initiate and process documents on Contract Compliance Reviews and attend the on-site review meetings. They inform the Civil Rights Bureau of any complaints and request investigations. They attend state workshops and use the contract documents, this plan, FHWA regulations and related forms to coordinate and execute their responsibilities under the Contract Compliance Program.

E. Project Personnel

Resident/Regional Engineers are responsible for execution and compliance with all terms and conditions stipulated in construction contracts. Resident/Regional Engineers conduct periodic on-site inspections as outlined in II,B,3 of this plan. They are required to be alert to any changes in the contractor's operation, which affect the numbers of employees, or employment practices of the contractor, to confirm or verify performance by DBEs of Commercially Useful Functions, and to ensure that operational changes do not result in discrimination or noncompliance with contract provisions.

The Resident/Regional Engineers also report any discrimination complaints in accordance with Section IV of this plan to the District EEO/ST Coordinators or designated DRIs who in turn report the complaints to the Civil Rights Bureau.

II. Compliance Procedures

A. The authority and basis for compliance procedures are in:

- Construction Contract Equal Opportunity Compliance Procedures, 23 CFR 230, Subpart D
- EEO Special Provisions (23 CFR 230, Subpart A)
- Training Special Provisions (23 CFR 230, Subpart A, Appx B)
- 49 CFR Part 26, Minority Business Enterprise
- Federal-Aid Policy Guide (FAPG)

B. Implementation

1. The Department complies with the cited regulations by taking the following actions:
  - Notice that the successful bidder is required to comply with special EEO Provisions is included in all bid advertisements that exceed \$10,000.00. (OFCCP 41 CFR 60-4.2)
  - District EEO/ST Coordinators or designated DRIs attend construction conferences to discuss all aspects of CR Special Provisions.
  - Notice that the successful bidder will be required to comply with special Training Provisions is included on bid advertisements on certain projects identified by District personnel in coordination with the CCO.

- District EEO/ST Coordinators, designated DRIs or the Resident/Regional Engineers review the requirements of CR Special Contract Provisions at preconstruction meetings.

The procedures for effecting compliance with CR Special Contract Provisions are outlined in Section II,B,3 of this plan

## 2. Preconstruction Conference

- a. The Resident/Regional Engineer, District EEO/ ST Coordinator or designated DRI presents the contractor with a "package" containing:
  - (1) OFCCP-1420, Equal Opportunity Is the Law
  - (2) Idaho Law Prohibits Discrimination posters - Human Rights Commission
  - (3) FHWA-1391 in adequate quantities to submit annually for the duration of the project
  - (4) ITD-2876, Monthly Employment Utilization Report, in adequate quantities to be submitted monthly for the duration of the project.

## 3. Resident Engineer Guidelines

Instruction to Resident/Regional Engineers on implementing CR contract provisions is contained in Section 113 of the Contract Administration Manual.

### a. EEO Provisions

EEO provisions, as well as DBE and Training (when appropriate), are emphasized by either the Resident/Regional Engineer, EEO/ST Coordinator or designated DRI to elicit confirmation from the contractor that the following requirements are understood (an outline of the following information is attached as **Exhibit B** and is contained in the Contract Administration Manual, Exhibit 108.03-2a):

- (1) Discrimination based on race, sex, color, national origin, age or religion is prohibited.
- (2) The contractor must develop and post an equal employment policy statement, which expresses the firm's commitment to affirmative action and equal employment opportunity. All subcontractors must also post their policies.

- (3) In a letter to the Resident/Regional Engineer, the contractor designates an Equal Employment Officer for the project. The selected individual must have the authority, position and experience to carry out an effective EEO program.
- (4) The contractor's supervisors and employees must be advised (preferably in meetings) of the company's EEO policy before starting the project. Written instructions or record of the meeting will be given to the Resident/Regional Engineer for inclusion in the project file. Subsequent EEO meetings are held every 6 months thereafter during the period of construction.
- (5) The goals for minority and female employment are specified in the contract and have been developed by the Department of Labor. The Department of Labor is responsible in enforcing compliance of these goals. See page 6 of Contract Civil Rights Special Provisions (see **Exhibit O**).
- (6) The contractor must maintain employment records in a format, which identifies employees by race, sex, craft and work status and hours worked in each craft and apprentice/trainee level, if appropriate. These records may be requested in summary form by ITD.
- (7) All subcontracts over \$10,000.00 must include the same contract EEO provisions as contained in the contract with the prime contractor. In other words, all subcontractors (over \$10,000.00) have the same employment goals and affirmative action goals as the prime contractor and are also subject to Compliance Reviews and penalties if found not to be in compliance.
- (8) Failure to comply with Civil Rights Special Provisions can result in:
  - Withheld progress payments.
  - Suspending the contract until found in compliance.
  - Canceling or terminating the contract.
  - Assess against the contractor's final payment on this contract or any progress payments on current or future Idaho Federal-Aid projects an administrative remedy by reducing the final payment or future progress

payment in an amount equal to 10% of this contract or \$7,700 whichever is less.

Specific procedures for instituting the above sanctions are outlined in Section III of this plan.

- (9) The contractor submits employment data reports (FHWA-1391) each July on all work performed under the contract by the contractor and/or any covered subcontractor. The contractor is also required to submit Form ITD-2876 each month. Forms are obtained from the Resident Engineer.

b. On-site Inspections (Form ITD-2674 attached as **Exhibit C**)

After each project is under way and a majority of the anticipated work force has been employed the Resident/Regional Engineer conducts on-site inspections and records the findings on Form ITD-2674. If the Resident/Regional Engineer finds minor items (e.g., EEO policy not posted), the contractor will be requested to take corrective action immediately. If the contractor or subcontractor refuses or if more significant issues that might reflect potential discrimination are found, the Resident/ Regional Engineer should request a Compliance Review by the CCO. Copies of all on-site inspections will be forwarded to the CCO.

- (1) On-site inspections for EEO requirements will be conducted on:
  - All prime contractors.
  - All subcontractors.
- (2) The Resident/Regional Engineer will complete the on-site review form (Form ITD-2674) and distribute as indicated on the form. EEO on-site inspections determine whether:
  - An EEO poster, as prescribed in 113.00 of the Contract Administration Manual, is in place on the project and posted in an area readily accessible to present employees and applicants for employment.
  - The EEO policy of the prime contractor(s) and of all approved, covered subcontractors are posted adjacent to the EEO poster. The text of the EEO policy will be as required in the Special Provisions, or one that includes

equivalent wording in addition to describing other general or specific procedures to implement equal opportunity.

- All employee facilities are desegregated.
- Minorities/females are employed and integrated into the various crafts of the project/area work force.
- The contractor's and/or subcontractor's supervisors have been advised of the contractor's EEO commitments. Also, determine whether employees have been advised in meetings or by personal notice that EEO requirements will be honored.
- Minority subcontractors or subcontractors with meaningful minority/female representation among their employees are being utilized on the project.
- The contractor has personnel on the project in an apprenticeship or on-the-job training program. If so, are minority/female employees in the training program? (23 CFR 230.409(g)(3)iii, (v) and (xi).
- The contractor advertised for employees. If advertisements are used, do they include the notation, "An Equal Opportunity Employer," and are they inserted in newspapers or other publications having circulation among minority/female groups?
- There have been any complaints concerning discrimination lodged with the contractor and/or the state.
- The contractor, or an authorized representative, periodically conducts inspections and/or reviews to ensure that discriminatory working conditions and/or employment practices do not exist on the project site.
- The contractor's EEO Officer visits the project site and is known to state project personnel.
- The contractor has furnished the Resident/Regional Engineer copies of records of meetings with company supervisory personnel concerning EEO practices.



(3) Training Special Provisions

- (a) The primary purpose of the Training Special Provisions (TSP), implemented within the On-the-Job Training (OJT) Program, is to train and upgrade minorities and women toward journey level status in crafts where they are under represented. If applicable the contract will specify the number of training slots (1 slot = 1,000 hours) to be filled. Minorities and women in training positions can be counted toward the EEO goals.

CONTRACTORS ARE ENCOURAGED TO BRING TRAINEES INTO THE WORK FORCE EARLY IN THE CONTRACT TO PROVIDE ADEQUATE OPPORTUNITY FOR TRAINEES/ APPRENTICES TO COMPLETE THEIR PROGRAMS AND TO REDUCE THE RISK OF BEING FOUND IN NONCOMPLIANCE WITH THE TRAINING SPECIAL PROVISIONS.

- (b) The contractor may use either DOL or ITD/FHWA approved programs to be eligible for the \$.80/hour reimbursement under the TSP/OJT requirements. Other programs may be submitted for approval by DOL or ITD. Trainees or apprentices must be approved by the Resident/Regional Engineer before the contractor is eligible for reimbursement.
- (c) Prime contractors may request additional training hours or may relinquish training slots to subcontractors. (Prime contractor's responsibility to comply with the training special provisions is not relinquished.) However, if the positions are relinquished to a subcontractor, minority/women trainees in those positions cannot be counted toward the EEO goals of the prime contractor - only toward the requirements of the subcontractor.
- (d) Contractors should fill training positions as follows:
- Minorities and women receive first priority.
  - Disadvantaged persons, as defined by the DOL in **Exhibit D**.

- Other individuals not represented above are allowed into the TSP/OJT Program only after the contractor has made and documented a good-faith effort to hire minorities, women and the disadvantaged.

- (e) The contractor must identify trainees/apprentices on payrolls by race, sex, craft, status within the program and other relevant information, which may be requested.
- (f) The contractor must furnish trainees who complete programs with some evidence that the trainee has successfully completed the training, e.g., letter, certificate, card, etc.
- (g) Contractors must make an effort to select training programs that address crafts that are underutilized by minorities and women. There will be no Training Special Provision requirement included in the contract if there is no under representation of minorities or women found in any of the contractors' work crafts, or in construction trades based on ITD's evaluation/analysis by geographical areas of the state.

4. DBE Contract Provisions (see DBE plan for complete information)

- a. The contractor is required to subcontract with the DBEs identified on Commitment Form ITD-2396 (**Exhibit E**) prior to award unless the DBE is unable or unwilling to perform. When a DBE is unable or unwilling to perform, the contract requirement IS NOT REDUCED. The prime contractor must replace the loss with another DBE subcontractor or perform and document good-faith efforts to do so. The substitute DBE need not perform the same work subcontracted to the removed DBE.
- b. The DBE must perform a "Commercially Useful Function." ITD Inspectors will monitor and document on Form ITD-1701 whether the DBE: (A copy of all ITD-1701 to the CCO)
  - Is responsible for a distinct element of the work.
  - Is actually performing, managing and supervising the work involved.
  - Is functioning as an INDEPENDENT business.

- c. Sanctions will be imposed for breach of any provision of the DBE Special Provisions. If DBE irregularities are detected, refer to sanction process and procedures outlined in ITD's DBE Program Plan.

4. Compliance Review

- a. Purpose

The purpose of a Compliance Review is to determine if the prime contractor(s) and subcontractor(s) maintain nondiscriminatory hiring and employment practices and are taking affirmative action as outlined in the EEO Special Provisions and the Training Special Provisions, and to ensure that applicants are employed and placed, trained, upgraded, promoted and otherwise treated equally during employment without regard to race, color, religion, sex, national origin or age. The review provides a comprehensive evaluation of all aspects of employment practices and conditions. The review is conducted by the CCO with the assistance of the District EEO/ST Coordinator or designated DRI. The Resident/Regional Engineer and other representatives of the Civil Rights Bureau, District or FHWA, attend as appropriate.

- b. Selection of Contractor

The CCO, in coordination with the CCR, the Assistant Construction Administration Supervisor, Roadway Design Engineer and appropriate District personnel, identifies projects and contractors early in the calendar year who will be reviewed.

The selection of contractors for Compliance Reviews is based upon one or more of the following criteria:

- Contractors or projects, which offer the greatest potential for employment and promotion of minorities and women, particularly to higher-skilled crafts or occupations.
- Contractors or projects in areas, which have significant minority and female labor forces within a reasonable recruitment area.
- Contractors or projects that have the percent of contracts completed (prior to or during peak employment periods and after a meaningful work force becomes active on the projects).
- Contractors or projects that have the type of projects (grading, structures, paving, etc.) as it relates to potential employment on the projects.

- Special request from FHWA.
- Contractors or projects that have contracts that include the training special provisions.
- Contractors who through a review of statistical data on past and/or current minority/female employment indicates a need.
- Contractors or projects that have had an employee complaint.

c. Scheduling Reviews

In coordination with Resident/Regional Engineer, the EEO/ST Coordinators or designated DRIs schedule review dates of the selected contractors, giving primary consideration of the contractor's work schedule to ensure that Compliance Reviews are conducted shortly before or during peak employment. EEO/ST Coordinators or designated DRIs coordinate schedule dates with the CCO in the Civil Rights Bureau.

d. Conducting the Review

While the CCO is ultimately responsible for conducting the review, the District EEO/ST Coordinators or designated DRIs are responsible for initiating the review process, preliminary analysis of the documentation submitted and preparation and distribution of all related letters and forms. The CCO will conduct the On-site Conference. Others attending the On-site Conference will be the EEO/ST Coordinator or designated DRIs, representatives of FHWA, appropriate District staff and the Contractors' representatives. The EEO/ST Coordinators or designated DRIs may be requested to conduct the On-site Conference by the CCO or the CCR if needed. FHWA representatives attending the On-site Conference may ask questions regarding any issues of the compliance review.

e. Phase I – Precompliance Review Responsibilities

- (1) The District EEO/ST Coordinator or designated DRI obtains or develops the following information for use in the review:
  - (a) Updated census data projecting the composition of the work force in the county(s) where the area/project to be reviewed is located and in contiguous counties. The information is obtained from Affirmative Action Statistics (latest edition) published by the Research and Analysis Bureau of the Idaho Department of Employment.

- (b) Referral sources within a reasonable recruiting area, which are able to refer minorities and females for the project.
- (2) Notice to Contractor (see sample notice -**Exhibit G**)
  - (a) The District EEO/ST Coordinators or designated DRIs notifies the Contractor giving 3 weeks' notice that a Compliance Review will be conducted. The notice advises that the review consists of two parts: (1) an evaluation of the compliance documentation (listed below under Phase I) and (2) a tour of the project, interviews with employees and the On-site Conference - all of which is considered as the "on-site" portion of the review.
  - (b) In the notice to the contractor, the time of the on-site review the location and any other details agreed upon in preliminary discussions with the contractor will be specified. See attached sample letter.
  - (c) In the notice to the contractor, it will be requested that the documents (or copies) listed below in Phase I be forwarded to the EEO/ST Coordinator or designated DRI no later than 1 week before the scheduled date of the on-site, or Phase II, portion of the review. This should allow time to analyze the material before meeting with the contractor.
- (3) Documentation (Information received from the contractor will be listed by the EEO/ST Coordinator or designated DRI on Form ITD-86, Exhibit F when applicable)

The contractor submits the following information:

- (a) List of all Federal-Aid projects currently open in the SMSA/EA area of the review including the value of each.
- (b) Names and titles of personnel that will be representing the contractor's firm at the on-site review.
  - Documentation showing authority of company positions.

- Name and title of the contractor's policy officer.
  - Name and title of the contractor's project officer.
  - Name and title of the contractor's EEO officer (documented by a memorandum).
  - Documentation showing current EEO Officer's job duties and responsibilities.
  - Documentation showing EEO officer's background, training, and history with company.
- (c) A copy of the company's EEO policy. (Evaluation of content not required or expected.)
- A copy of the Affirmative Action Plan. (Evaluation of content not required or expected.)
  - Documentation that EEO meetings were held - minutes of meetings, diaries, etc.
- (d) A list of the Contractor's suppliers, vendors and subcontractors, for each project being reviewed, that are providing services or supplies valued over \$10,000.00.
- Submit copies of those pages of subcontracts and purchase orders (over \$10,000.00) containing the EEO clauses or other verification that stipulated clauses are included.
  - List of minority or female owned companies contacted as possible subcontractors, vendors, materials suppliers.
- (e) List of all members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees or make recommendation for such actions.
- Documentation of indoctrination of this staff regarding company EEO obligations.
- (f) List of company personnel responsible for recruitment.

- Documentation showing training of recruitment personnel on Company EEO hiring procedures.
- (g) A list of recruiting sources utilized. (The EEO Coordinator or designated DRI should have compiled a list of sources available for comparison.)
- Submit copies of letters, diaries, etc., documenting requests for minorities/women in specific crafts including all follow-up documentation.
  - Submit a copy of application for employment form.
  - List of any advertisements with verification of publication.
  - Documentation of requests to current employees to refer minorities and or females for work.
- (h) A list showing all hiring opportunities listed by job categories showing total employees, total minorities, and totals by ethnicity (male and female).
- (i) List of all promotions made during the review period by race, sex, previous positions, position promoted into, and corresponding wage rates.
- (j) List of all terminations and layoffs during the review period showing total employees, total minorities, and totals by ethnicity (male and female).
- (k) If a Union contractor, submit a copy of agreement(s).
- (l) Construction employment data for the area/project being reviewed for the current construction season up to the review date. The contractor may use a FHWA-1391 to submit this information. (Area would be based on the SMSA or EA as stated in the special provisions of the contract.)
- Information should be listed by job categories and show total employees (male and female).

- Information in each job category showing total minorities (male and female) and showing totals (male and female) by ethnicity
- (m) Copies of annotated payrolls for the review period covered by craft, race, and sex.
- (n) Amount of training hours allocated to the project(s).
- (o) Analysis of training data on each trainee/apprentice showing the project, craft, sex, ethnicity and hours worked to date.
- (p) Documentation of steps taken by contractor promoting training opportunity internally and externally.
- (q) Status of any discrimination complaint that has been filed against the contractor.
- (4) Evaluation of Documents

The CCO is responsible for conducting the review but when this documentation has been received, the EEO/ST Coordinator or designated DRI will:

- (a) Review policies, application forms, AA Plan, EEO pages from subcontracts and purchase orders, list of recruiting sources.
- (b) Verify that the contact of minority and female owned companies solicited for subcontracting opportunities actually took place.
- (c) Verify that the DBE firms committed to on the ITD-2396 DBE Commitment Form are actually performing the work items they were committed to do.
- (d) Review Union agreement, if required.
- (e) Review documents provided by the contractor. Compare information and documents with Form ITD-2876, payrolls and other employment data previously submitted to the Resident/Regional Engineer's office to verify accuracy and nondiscrimination in wages.



- (f) Verify that recruiting phone calls, faxes or letters to unions, Job Service, TEROs, votech schools and other sources were actually made by calling the source named in good faith effort documentation. If sources have no knowledge of contractor's efforts, note this to be discussed at the On-site Conference.

Some points to consider:

- How and when does the contractor disseminate EEO policy -posting on boards, employee handbooks, meetings? At time of employment or day before EEO review?
- Does the designated EEO Officer: Understand EEO responsibilities? Have the authority to accomplish the objectives? Have other duties? Was his/her name submitted at the preconference meeting? Is he/she known to employees as the EEO Officer and where he/she can be contacted?
- Which recruiting sources were used? Did the contractor advertise in publications? Did advertisements include EEO clause? Does the application form solicit voluntary response to ethnicity/sex identification? (The employer is not prohibited from maintaining this information on completed applications if the information is kept solely for affirmative action or statistical purposes and is not subject to misuse.)
- Does the contractor encourage current employees to refer minority/female applicants?
- How often does the contractor's representative inspect the project for compliance with EEO requirements? When was the last time?
- Which training programs are being used? Do trainees have copies of their programs? Is the journeyman/trainee ratio being maintained? How does the contractor advertise and select trainees? Are trainees in programs where there is under-utilization of minorities/ women? How many trainees/ apprentices have graduated from programs conducted by this contractor during the

last 3 years? Were these trainees retained in the contractors workforce?

- What was the nature of complaint(s), if any? How many were there? How were they resolved?
  - Are EEO clauses contained in Union agreements? Are agreements exclusive? Has the contractor resorted to outside referrals because the Union would or could not provide minority/women referrals?
  - Have all required forms and documents been submitted to the Resident/Regional Engineer
    - ITD-2876, Monthly Employment Utilization Report
    - FHWA-1391, EEO Report (due in July)
    - Weekly Safety Meeting Reports
    - Certified payrolls
    - Training information
  - Other information obtained through the Resident/Regional Office.
    - Pre-construction meeting minutes
    - ITD-2396, DBE Commitment
    - ITD-1701, Commercially Useful Function
    - ITD-2674, Resident/Regional Engineer On-Site Inspection Report
- (g) Make copies of the partially completed ITD-86 and your preliminary evaluation and submit to the CCO. Allow time before the on-site portion of the review for the CCO to evaluate information and become familiar with the preliminary findings.
- (h) Make a list of any questions, inconsistencies or discrepancies and submit/review them with the CCO

to determine if they need to be discussed at the On-site Conference.

f. Phase II - On-Site Review

(1) While the CCO is responsible for conducting the review the EEO/ST Coordinator or designated DRI and/or the CCO will tour the project to:

(a) Verify that posters are conspicuously displayed and legible and that facilities are not segregated. (This opportunity is used to observe general working conditions and workers - who is operating equipment? How are they supervised? Are minorities and women visible? Does the EEO information provided by the contractor agree with what is seen on the project? If not, can it be explained?)

(b) One minority, one non-minority, one woman and one supervisor will be interviewed to determine:

- Name and Social Security number.
- For whom they work.
- In what craft they were hired.
- How they got their job on this project.
- Whether they attended a meeting at which EEO obligations were discussed.
- Whether they were advised that they had the right to file a discrimination complaint and whom they should contact to do so.
- If a Union contractor, request to see Union ID.

(A suggested format is attached as **Exhibit N.**)

In the letter sent by the EEO/ST Coordinator or designated DRI scheduling the review (see example, **Exhibit G**), the contractor should be asked to have the four people available for a very brief interview, at the contractor's convenience. The interviews should be completed with the least amount of disruption possible. If the contractor's work, or work schedule,

is such that it would cause a great deal of inconvenience to conduct interviews all at once, or on the same day as the On-site Conference, make other arrangements. However, do not compromise the integrity of the interviews. Take appropriate measures to ensure that the interviewed employees' responses accurately reflect THEIR perceptions and experiences, not anyone else's.

(c) On-Site Conference

The contractor shall provide a place for the On-site Conference. Preferably, at the Contractor's office or on the project. This is to enable the Contractor access to any additional information that would be requested during the On-site Conference.

The EEO/ST Coordinator or designated DRI will obtain a list of those people in attendance. The Project Engineer should be present, along with other representatives of ITD, FHWA representatives (on selected projects) and the representatives of the contractor.

The CCO will:

- 1) Explain the purpose of the review (to determine compliance with EEO contract provisions) and the authority under which it is conducted (23 CFR 230).
- 2) Go through the ITD-86 to obtain any information from the Contractor that is needed to complete the ITD-86 and to discuss information already submitted by the Contractor and listed on the ITD-86 by the EEO/ST Coordinator or designated DRI.
- 3) Ask questions developed in the analysis of the documentation that was submitted before the on-site review.
- 4) Clarify any inconsistencies between documentation and payrolls or other information previously submitted to the Resident/Regional Engineer.

- 5) Ask any unanswered questions that may have arisen as a result of the interviews with employees or due to observations made during the tour of the project.

An On-site conference will be held to discuss the preliminary findings from the material that was submitted before the on-site portion of the review and any preliminary findings resulting from the on-site portion of the review.

If a Voluntary Corrective Action Plan (VCAP) can be used (according to the criteria listed in item 30 of the instructions to ITD-86 Exhibit F) to remedy minor deficiencies, that plan may be completed at the On-site Conference (or within 5 days). The contractor should understand that the VCAP addresses only those minor deficiencies, which have been identified during the preliminary evaluation of documents, on-site observations and interviews, and the On-site Conference. These deficiencies will be issues that can be corrected by the Contractor within 30 days. In all other cases, a Show Cause Notice (SCN) will be issued and a Corrective Action Plan (CAP) required (see 7.a. and b. below). Execution of a VCAP does not preclude a later finding of noncompliance when all the information has been thoroughly examined.

Inform the contractor that, within 30 days, ITD will send a completed copy of the ITD-86 showing the determination that was made and a letter specifying what, if anything is expected of the contractor.

## (2) Evaluation of All Information

The CCO will evaluate all the information obtained against the criteria established in this plan and the ITD-86 to determine whether the contractor is:

- In compliance - no further action is required;
- In compliance - VCAP required; or
- Not in compliance - SCN required.

The CCO will justify the determination in item 29 of the ITD-86, using additional sheets as necessary, according to the

instructions. Any deficiencies that have been identified will be listed. Good-faith efforts made, will be described on the ITD-86 and have supporting documentation.

(3) Processing Documents

All documentation such as Form ITD-1701, the VCAP the proposed SCN, etc., will be compiled by the CCO. The CCO will obtain the required ITD signatures and send a copy to the District EEO/ST Coordinator or designated DRI for the district files. Copies will then be sent to FHWA for its review and concurrence, or nonconcurrence determination. (If FHWA does not concur with the determination of ITD appropriate action must be taken in line with the FHWA determination.)

If it is determined by ITD that the contractor is in compliance, with no further action needed, a memo will be sent by the CCO instructing the EEO/ST Coordinator or designated DRI to send a transmittal letter commending the contractor.

If a VCAP is executed, a transmittal letter will be sent by the EEO/ST Coordinator or designated DRI referring to anticipated correction of the deficiencies by the date indicated on the VCAP.

If the contractor is found in noncompliance by ITD, the CCO will instruct the EEO/ST Coordinator or designated DRI to send a copy of the ITD-86 to the contractor with a SCN signed by the District Engineer. The SCN will specify what is expected of the contractor and will be sent via certified mail, return receipt requested. (see **Exhibit H**)

(a) Show Cause Notice (see **Exhibit H**)

A proposed SCN need not be reviewed by ITD Legal Counsel before being sent by certified mail to the contractor unless it differs significantly from **Exhibit H**. The 30-day period stated in the SCN begins on the day the contractor receives the notice.

During this 30-day period stated in the SCN, the EEO/ST Coordinator or designated DRI will be required to attempt conciliation with the contractor. These conciliation and negotiation efforts shall be directed toward correcting the contractor's deficiencies and initiating a Corrective Action Plan.

(b) Corrective Action Plan (see **Exhibit I**)

Although the CCO is responsible for conducting the review, it is the EEO/ST Coordinator or designated DRI that should be available to assist the contractor in developing a Corrective Action Plan (CAP), which addresses the deficiencies identified in the SCN. In the SCN a compliance conference is scheduled - usually 2 weeks from the issuance of the SCN - to discuss the plan the contractor has developed to correct the deficiencies. The plan must specify what action is going to be taken and when that action can reasonably be expected to be completed. If there is insufficient time remaining to correct the deficiencies on the project(s) found in noncompliance, it should be addressed in the CAP that the contractor is required to meet the conditions of the CAP until a follow-up review can take place on a future project(s). Each item in the plan should correct the deficiencies stated in the SCN. The contractor will also be required to submit monthly progress reports as part of the process to correct the deficiencies stated in the SCN. The EEO/ST Coordinator or designated DRI will send a copy of the CAP to the CCO for approval. When necessary the CAP will be reviewed by ITD Legal Counsel. Once the CAP is approved by the CCO the EEO/ ST Coordinator or designated DRI will be notified that the plan is accepted and should be implemented.

**If the contractor does not correct deficiencies and fails to develop, sign and implement a CAP within the 30-day period stated in the SCN, progress payments will be withheld by the Resident/Regional Engineer commencing the day after the expiration of the 30-day period. (See Section III Contract Sanctions) No CAP is necessary if corrections can be made within the 30-day SCN period, otherwise a CAP with specific commitments and time frames for accomplishments is needed.**

If the contractor implements a CAP, it will be considered that the contractor is in compliance as long as the monthly reports and other documentation required by the CAP indicate that real progress is

being made toward eliminating the deficiencies identified in the SCN or that a good-faith effort is being made. CAPs can be amended if the contractor has carried out each committed action and those actions are not producing the intended results.

(c) Recission of Show Cause Notice (see **Exhibit J**)

When the CAP is accepted by ITD, the SCN is rescinded. The CAP remains in effect until a follow-up review can be conducted. Follow-up reviews will be conducted by the EEO/ST Coordinator or designated DRI.

(4) Follow-Up

(a) Corrective Action Plans

Although the CCO is responsible for conducting the original review, a follow-up review is made by the EEO/ST Coordinator or designated DRI. This follow-up review is made at the earliest possible date after the contractor has had hiring opportunities (determined by monitoring the ITD-2876s). Follow-up reviews can be conducted on future project(s) when there is insufficient time remaining on the project(s) found in non-compliance and should be noted in the CAP. The EEO/ST Coordinator or designated DRI will submit a narrative report to the CCO who will forward a copy to FHWA Division on their findings.

If the contractor fails to comply with the terms of a CAP, a formal hearing will be held as outlined in section III. Contract Sanctions of this plan. At this hearing, the contractor will be given the opportunity to offer a rebuttal to the findings. The formal hearing panel will consist of designated Civil Rights, District and Roadway Design personnel, and shall include ITD Legal Counsel.

After considering the evidence presented at the hearing, the panel will determine whether:

- (1) Payments will be withheld from the contractor.



- (2) The contract will be suspended until the contractor complies.
- (3) The contract will be terminated.
- (4) Assess against the contractor's final payment on this contract or any progress payments on current or future Idaho Federal-Aid projects an administrative remedy by reducing the final payment or future progress payment in an amount equal to 10% of this contract or \$7,700 whichever is less.

There are no provisions to reinstate a SCN. See Section III for appeal process.

(b) Voluntary Corrective Action Plan

A review is conducted by the EEO/ST Coordinator or designated DRI at the termination of the VCAP to determine whether commitments have been met. If they have been met, the EEO/ST Coordinator or designated DRI prepares a written report on actions taken and results of those actions. The EEO/ST Coordinator or designated DRI then advises the contractor in a letter that the requirements of the plan have been met and the review is completed. Copies of the report and letter are forwarded to the CCO.

If a contractor fails to comply with the terms of a VCAP, the EEO/ST Coordinator or designated DRI should request approval from the CCO to declare the contractor in noncompliance and issue a SCN.

Contractors operating under CAPs, or VCAPs, should be closely monitored by the EEO/ST Coordinator or designated DRI and the Resident/Regional Engineer to ensure that the commitments contained in them are actually honored and are effective.

C. Distribution of Reports

1. Resident/Regional Engineer "On-Site" Inspection

- The Resident/Regional Engineer's District On-Site Inspection Reports are entered in the project file. Other copies are distributed by the

Resident/Regional Engineer as indicated on the form. Central office files are available to FHWA personnel at any time.

2. Contract Compliance Report - ITD-86

Completed ITD-86 forms are distributed as follows:

- Copy with letter and/or VCAP or SCN if appropriate to the contractor.
- Copy with all documents required by the form (e.g., extended list of subcontractors, extended summary statements, copies of ITD-1701s [see **Exhibit K**], notices to Unions, recruiting publications, summaries of interviews, etc.) and SCN or VCAP, if required, to the CCO. (The CCO will forward required documentation to the FHWA Division.)
- Copy with all supporting documentation will be retained in the District file for the required 3 years.

3. Contractor's Annual EEO Report (Form FHWA-1391, **Exhibit L**)

- a. The EEO Contract Special Provisions require submission of an Annual EEO Report by contractors and covered subcontractors on federal aid contracts. Two copies of each report are submitted to the Resident/Regional Engineer (see **Exhibit L**.) A separate report is required for each project the contractor has under contract in Idaho during the month of July, whether or not the contractor is active during July. Contractors with projects under contract but with no work under way are required to submit a form stating "no activity."
- b. The staffing figures to be reported should represent the project workforce on board in all or any part of the last payroll period preceding the end of July.
- c. The prime contractor provides employment data for his employees only on this report. Each subcontractor with a subcontract of \$10,000.00 or more submits the annual report with the employment data on those people he employs at the project site. A subcontractor may submit this report through the prime contractor or it may be submitted directly to the Resident/Regional Engineer.
- d. The Resident/Regional Engineer or the ITD Project Manager signs Form FHWA-1391 as the "Reviewer" after examining the reports to determine:
  - The basic posture of each contractor and/ or subcontractor in regard to distribution of minority/female group personnel throughout the work classifications being utilized on the project.

- If there are changes in number and/or distribution of minority/female group personnel among the various work classifications as the work force is expanded to meet the demands of increased construction activity.
- e. Distribution is as follows:
- One copy to the District project file.
  - One copy forwarded to the CCO.
- f. The CCO examines the annual submissions of Form FHWA-1391 to determine:
- (1) The basic posture of the contractor in regard to distribution of minority/female group personnel throughout the work classifications being utilized on the project.
  - (2) If there are significant changes in number and/or distribution of minority/ female group personnel among the various work classifications as the work force is expanded to meet the demands of increased construction activity.
  - (3) When, in the opinion of the CCO, a FHWA-1391 report shows a contractor or subcontractor in need of improvement in the number and/or distribution of minorities and/or females, that report will be flagged in the project file so that future reports may be given special examination by the Resident/Regional Engineer.
- g. The information obtained from the appraisal of the annual reports is used (if necessary) to:
- (1) Request additional reports at a future date when the work force has expanded to a level that would be more representative of the number and distribution of minority/female personnel within the contractor's work force.
  - (2) Assist, when combined with other project information, in the decision to select a particular contractor for Compliance Review.
  - (3) Determine the need for spot-checking the field office procedure used in reviewing the reports. If necessary, the CCO will counsel with Resident/Regional Engineers concerning the meaningful analysis of these reports and

subsequent recommendations that might be made to a contractor regarding improvements in the company EEO posture.

4. Summary of Annual Employment Data (Form FHWA-1392, **Exhibit M**)

The following procedures are used for compilation, evaluation and submittal to the FHWA of the annual employment data report:

- a. The CCO will review each FHWA-1391 collected by the Resident/Regional Engineers from contractors and/or subcontractors required to submit the annual employment data report.
- c. The CCO evaluates the individual FHWA-1391s to determine:
  - The distribution of minorities and/or females throughout the job classifications being used
  - The number of minorities and/or females in the total construction work force
  - The completeness of information submitted.
- d. The FHWA-1391s submitted by each District are consolidated by the CCO on a master Form FHWA-1392 for transmission to the Federal Highway Administration. A copy of each FHWA-1391 accompanies the FHWA-1392. Copies of the FHWA-1392 are sent to the Deputy Director, CAS and CCR.

### III. Contract Sanctions

The Idaho Transportation Department has included in the Civil Rights Special Provisions of all federal aid contracts the stipulation that noncompliance findings will result in sanctions.

- A. If a contractor or subcontractor fails to show cause within 30 days of notification why sanctions should not be imposed for failure to comply with the EEO portions of the contract, the Resident/Regional Engineer, in coordination with the District Engineer, will withhold project progress payments until the contractor or subcontractor responds in an acceptable manner.

Unless the contractor can immediately produce relevant documentation supporting a good-faith effort or determination of compliance, the contractor's standard response is the development and implementation of a CAP. The plan must be designed to correct deficiencies at the earliest possible date. (If an acceptable CAP does not produce the desired results, after a follow-up review, then ITD and the contractor may amend the CAP.)

B. If a contractor or subcontractor fails to meet the conditions of a CAP, the Resident/Regional Engineer will advise the District Engineer, who will immediately request a formal hearing before a panel consisting of a selected member of ITD's Legal Counsel, representatives from Roadway Design, Bureau of Civil Rights, and the District. The contractor shall be extended an invitation to attend to offer rebuttal to the findings. The purpose of the hearing will be to examine all documentation and determine which of the following sanctions will be imposed - not whether they will be imposed. After consideration of the findings and any rebuttal, the panel shall impose one of the following sanctions. Generally, sanctions will be imposed in sequential order for each incident that civil rights contract provision violations occur, and are brought before a hearing panel. However, ITD reserves the right to impose any sanction listed depending on the severity of the contractor's deficiency.

- (1) Withhold progress payments until it is determined that the contractor is found in compliance.
- (2) Suspending the contract, in whole or in part, until the contractor or subcontractor is found to be in compliance with no progress payment being made during this time and no time extension made.
- (3) Canceling or terminating the contract for cause in accordance with section 108.08 of the Contract Specifications.
- (4) Assess against the contractor's final payment on this contract or any progress payments on current or future Idaho Federal-Aid projects an administrative remedy by reducing the final payment or future progress payment in an amount equal to 10% of this contract or \$7,700 whichever is less.

The contractor or subcontractor will be advised of the determination of the panel within 30 days.

The decision of the panel is final unless the contractor appeals to the Chief Engineer, in writing, within 30 days of the panel's decision.

As stated in the Contract Specifications, 105.17, a contractor may appeal the Chief Engineer's decision to the Idaho Transportation Board (Board). The decision of the Board is final unless the contractor pursues his claim in a court of competent jurisdiction. At this point in the appeal procedure, the Board may petition FHWA for a hearing at the federal level if other means of compliance are ineffective.

#### IV. Complaints

##### External Discrimination Complaint Procedures

- A. Purpose: These procedures are designed to provide guidelines for the filing, processing and investigation of complaints of discrimination and harassment filed by employees and applicants of contractors working on ITD contracts.

- B. Department commitment: The Idaho Transportation Department is committed to thoroughly and promptly investigating the merit of each complaint in a confidential manner employing a process that treats all parties involved with respect. Contractors who are found to have discriminated shall be deemed in noncompliance with the EEO contract requirements and shall be required to promptly take corrective action or be subject to contract sanctions.
- C. Individuals eligible to file complaints: Applicable parties include all employees and applicants of prime and subcontractors possessing ITD federal and/or state contracts. Any employee of a contractor working on an ITD contract who believes they have been sexually harassed or discriminated against in their employment on the basis of race, color, national origin, religion, age or gender may file a complaint. A complaint is filed by submitting a written statement outlining the basis of the complaint to the ITD's CCO or to any of ITD's six District EEO/ST Coordinators. The complaint must be filed no later than 180 days of the alleged event(s). A copy of these procedures shall be provided upon request.
- D. Retaliatory actions prohibited: Retaliatory action against a person(s) who has filed a complaint, testified, or in any way participated in reporting alleged discriminatory practices is prohibited. The Contractor/Respondent shall be advised that such retaliation, if substantiated, shall constitute a violation of the EEO requirements and is subject to a finding of noncompliance and/or sanctions.
- E. Intake: When a discrimination complaint is filed with the Department, the District EEO/ST Coordinator or designated DRI notifies the CCO or the CCR. The CCR, in turn, notifies the Federal Highway Administration including a list of federal aid contracts the contractor holds in Idaho and the value and location of each. (Complaints filed by a contractor or a contractor employee against an ITD employee will be forwarded and investigated by FHWA.)

At a minimum, the following information is compiled by the District EEO/ST Coordinator or designated DRI and included in each report of discrimination:

1. Name, address and telephone number of the complainant.
2. Contractor involved and location where the complaint originated (project site, home office, etc.).
3. Basis of complaint (i.e., race, color, religion, sex, national origin, etc.).
4. Date(s) of the last occurrence of alleged discriminatory event(s).
5. Date complaint was received.
6. The complaint, signed by the complainant, and the issues involved.

- F. Investigation: The CCR will assign an investigator trained in performing civil rights fact-finding investigations who will promptly investigate each alleged act of discrimination. The investigation will be coordinated by the Bureau of Civil Rights to assure that the necessary information is gathered and reported to the CCR. The CCR will keep the Chief Engineer and the District Engineer informed of the status of the complaint during the investigation.
1. Before the investigation is started, the investigator will develop an investigation plan for approval by the CCR.
  2. The investigator will meet with the complainant, respondent and witnesses to investigate the charges as part of the fact-finding review.
  3. The complainant may have a representative present to assist in presenting information. It is the complainant's responsibility to keep his/her representative informed at all times. The representative may not be the investigator or staff member of the Bureau of Civil Rights or other ITD staff involved in civil rights matters.
- G. Findings Report: At the conclusion of the findings of fact, the investigator will complete a Findings Report and forward it to the CCR. The investigation will be completed in as timely a manner as possible so that a report can be sent to FHWA within 60 days.
- H. Investigative Summary and Recommendations Report: The CCR will review the Findings Report and make other requests for information as necessary. The CCR will prepare an Investigative Summary and Recommendations Report showing conclusions and recommendations and present it to the Chief Engineer and the Deputy Director.
- I. Statement of Department's Decision: The Deputy Director will review the report on the investigation and make a final determination of the department's decision. The CCR will prepare a Statement of the Department's Decision reflecting the department's final determination. The CCR will inform the complainant and the respondent of the department's decision and their right to appeal.
- J. Discrimination Determination: Where discrimination is determined, a "30-Day SCN" shall be issued and the Contractor/Respondent is required to take appropriate corrective or disciplinary action to eliminate discrimination and/or correct inappropriate behavior, plus develop a CAP. If the Contractor/Respondent fails to take the required steps identified a formal hearing will be held as outlined in section III. Contract Sanctions of this plan
- K. Appeal: If the complainant feels the agency decision is adverse to the complainant, the complainant can appeal to the Federal Highway Administration, the U.S. Department of Transportation or the U.S. Department of Justice. If the contractor feels the agency decision is adverse to the contractor, the standard contract sanctions appeal channel, as described in Section III of this plan, can be pursued by the contractor.

- L. Dissemination: The CCR will send copies of the complaint, Investigative Summary and Recommendations Report, and Statement of Agency Decision to FHWA within 60 days of receipt of the complaint.

**EXTERNAL CIVIL RIGHTS COMPLAINTS CAN BE FILED NO LATER THAN 180 DAYS OF THE ALLEGED INCIDENT.**

Complainants may file complaints simultaneously with ITD, OFCCP, EEOC and the USDOT. If simultaneous complaints are filed, each agency conducts its own investigation.

V. External Training

A. Identification of Projects for Inclusion of Training Special Provisions (Exhibit P)

1. The Roadway Design Engineer, in coordination with District personnel and the CCO, determines which construction contracts will contain the training special provision and the number of training positions that can be accommodated on each project.
2. Before each construction season, the Roadway Design Engineer, in coordination with District Design Personnel, makes an evaluation of the potential availability of work under the contracts, the duration of the work (to ensure adequate time for completion of training) and the potential long-term benefits to the trainees. Assignment of training "slots" to specific contracts is based on:
  - The availability of minorities, women and disadvantaged
  - The potential for effective training
  - Duration of the contract
  - Dollar amount of the contract
  - Total normal work force the average bidder is expected to use
  - Geographic location
  - Type of work
  - Need for additional journeymen in the area
  - Total training hours established and committed to FHWA
  - Ratio of journeymen to trainees during normal operations



3. If it is determined that the crafts on a project are not under-represented by minorities and women then training requirements will be removed from the contract.

B. Construction Contract Training Procedures

1. Contract provisions require that contractors submit name, Social Security number, craft, ethnicity and sex of all proposed trainees expected, along with the training program(s) for approval by the Resident/Regional Engineer. A copy of this information is also furnished to the EEO/ST Coordinator or designated DRI.
2. Contractors may utilize OJT programs approved by the U.S. Department of Labor and programs approved by ITD/FHWA. Contractors may also develop their own programs, but DOL or ITD/FHWA must approve them before training commences on the project. Resident/Regional Engineers may contact the Bureau of Apprenticeship and Training, USDOL, Boise, Idaho, telephone (208) 334-1013, to verify Department of Labor programs.

The following ITD/FHWA-approved programs may be utilized:

Heavy-Duty Mechanic	2,080 hours
Equipment Operator	2,080 hours
Highway Construction Carpenter	2,080 hours
Truck Driver	1,040 hours
Highway Cement Finisher	1,040 hours
Highway Construction Laborer	1,040 hours

The contractor's payroll records furnished to ITD must include all information necessary to identify minorities, women and disadvantaged trainees and must monitor trainee apprentice progress.

3. From payroll information furnished by the contractor, trainee/apprentice information and activity will be transferred to the Field Ledger System by the Residency/Regional staff and monitored to ensure compliance with the provisions of the contract and the individual training programs.

Residency/Regional personnel will establish individual ledger sheets for each trainee/apprentice, which contains the following information:

Name  
Social Security number  
Wage rate  
Training hours accumulated on previous jobs  
Job category (craft)  
Number of hours in approved training program  
Age

Gender  
Ethnicity  
Hire date  
Name of contractor  
Changes in work status  
Transfer to other project  
Termination - reason

4. Residency/Regional personnel will monitor payroll reports and trainee performance to ensure that:
  - The pay rate is increased at time increments specified in the training program.
  - Training is being given in the craft specified.
  - All phases of a training program are being incorporated into the work program of each employee.
5. Data furnished by the District on each trainee are compiled and monitored by the Civil Rights Bureau and used by the CCO to report to FHWA. It is important that all trainee ledger information be submitted in a timely manner to meet reporting deadlines.
6. When a trainee completes all requirements of a training program, the contractor should advise the trainee/apprentice by letter (or by issuance of a certificate). A trainee/apprentice's graduation from a program should be entered on the individual's ledger sheet.
7. Reimbursement to the contractor under the Training Special Provision is made at the rate of \$.80 per hour of acceptable training given each trainee under an approved program. An entry is made to the automated field ledger (which is separate from individual trainee ledgers) to include this amount in the progress payment.
8. Information compiled from the field ledger files for individual trainees is compiled by the Civil Rights Office and included in the annual Training Special Provision report each year for submission to FHWA.

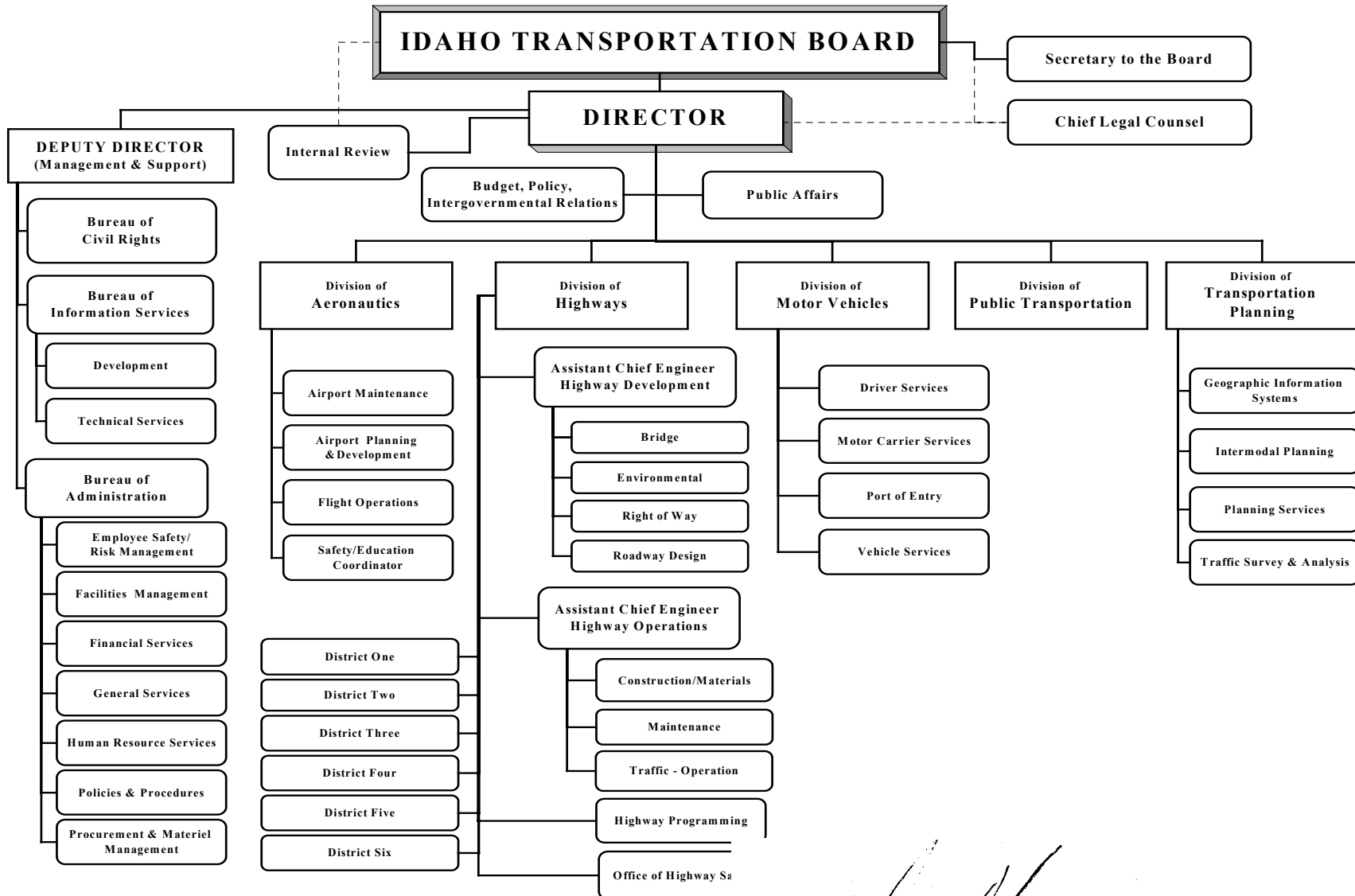
## **EXHIBITS**

- A - Organization Charts
- B - Outline of Preconstruction Meeting EEO Topics
- C - On-Site Inspection Report - Form ITD-2674
- D - DOL Definition of "Disadvantaged"
- E - Form ITD-2396
- F - Form ITD-86
- G - Sample "Notice to Contractor"
- H - Sample "Show Cause Notice" (SCN)
- I - Sample "Corrective Action Plan" (CAP)
- J - Sample "Recission of Show Cause Notice"
- K - Form ITD-1701, "Commercially Useful Function"
- L - Form FHWA-1391, EEO Report - Contractor
- M - Form FHWA-1392, EEO Report - Department
- N - Interview Form
- O - Contract Special Provisions
- P – Training Special Provisions

# IDAHO TRANSPORTATION DEPARTMENT

## ORGANIZATION COMPLEMENT

Chart revised 8/99



Approved by

**CIVIL RIGHTS PROVISIONS**

**EEO OBLIGATIONS**

- A. No employment discrimination on the project.
- B. Policy statements and posters displayed appropriately.
- C. Obtain letter from contractor identifying project EEO Officer, by name. Place in project file.
- D. Obtain record of contractor's meeting with employees (held before work commences) explaining EEO requirements. Place in project file.
- E. Contract's employee records indicating, race, sex, craft, work status (trainee or apprentice level, or journeyman) and hours worked in each craft. Information should be available in summary form when requested by ITD.
- F. EEO employment provisions apply to all subcontracts over \$10,000. Provisions must be INCLUDED IN ALL CONTRACTS.
- G. Sanctions for non-compliance include, withheld payments, suspending the contract until compliance obtained, terminating the contract, and/or damages.
- H. Contractor submits Form-1391, in July.

**TRAINING SPECIAL PROVISION**

- A. Purpose of program is to help eliminate the underutilization of minorities and women in the highway construction crafts. Program also assists contractor in meeting EEO goals. Contractor will be reimbursed \$.80 per hour of training under an approved program.
- B. Contract requires \_\_\_\_\_ slots; each slot = 1000 hours.
- C. Training program and trainees/apprentices have to be approved by Resident/Regional Engineer.
- D. Contractor can request additional training slots but must maintain ratio of journeymen to apprentices/trainees. Contractor may also assign positions to subcontractor, if approved. (Number of positions specified in contract relates to contract, not contractor.)
- E. Contractor provides trainee/apprentice certificate at completion of training.
- F. Trainees/apprentices must be identified on payrolls.

**DBE OBLIGATIONS**

- A. Contract requires \_\_\_\_\_% be subcontracted to DBE(s).
- B. Contractor must use DBEs identified on Form ITD-2396. If designated DBEs fail to perform, another DBE must be substituted, or a good faith effort made.
- C. Sanctions for non-compliance include, withheld payments, suspending the contract until compliance obtained, terminating the contract, and/or damages.
- D. DBE must perform a Commercially Useful Function (CUF). Failure of DBE to perform CUF will result in reduction of amount creditable toward prime contractor's DBE requirement.

ITD-2674      8-88      IDAHO TRANSPORTATION DEPARTMENT  
Resident Engineer's On-Site Inspection  
Equal Employment Opportunity

District \_\_\_\_\_ Resident Engineer \_\_\_\_\_ Percent Complete \_\_\_\_\_  
County \_\_\_\_\_ Project # \_\_\_\_\_  
Contract # \_\_\_\_\_  
Contractor or Subcontractor \_\_\_\_\_  
(If joint venture, give names of all contractors involved)

	<u>Yes</u>	<u>No</u>
1. Are EEO Posters placed in areas accessible to employees and applicants for employment at project site?	_____	_____
2. Is the company's EEO policy posted in near proximity to the EEO poster?	_____	_____
3. Are all employee facilities at project site desegregated?	_____	_____
4. Are minorities integrated into the contractor's and/or subcontractor's project workforce?	_____	_____
5. (a) Are contractor's and/or subcontractor's supervisory personnel aware of the company's equal employment opportunity commitments? (Ask 2 Supervisors)	_____	_____
(b) Are other employees aware of the company's EEO policy? (Ask 3 employees)	_____	_____
6. (a) Are disadvantaged subcontractors being utilized on the project: (Check DBE)	_____	_____
(b) Are minority group employees in the training program?	_____	_____
7. (a) Are there any personnel in an OJT or apprenticeship training program? (Must be approved by RE)	_____	_____
(b) Are minority group employees in the training program?	_____	_____
8. (a) Does the contractor and/or subcontractor advertise for employees?	_____	_____
(b) If advertisement is used, does it include the notation; "An Equal Opportunity Employer"? (Ask to see documentation)	_____	_____
9. Have there been any complaints concerning discrimination lodged with the contractor and/or the State? (Ask the contractor)	_____	_____
10. Has the contractor, or his representative, periodically conducted inspections and /or reviews to insure that discriminatory working conditions and/or employment practices do not exist on the project site?	_____	_____
11. Does the contractor's EEO officer visit the project site and is he known to State project personnel?	_____	_____
12. Has the contractor furnished the Resident Engineer copies of records of meetings with his supervisory personnel concerning equal employment opportunity practices?	_____	_____

Remarks:

\_\_\_\_\_

Date

\_\_\_\_\_

Resident Engineer

*Distribution: Project files, Dist. Engr., Dist. EEO/ST. Coord., Cont. Compliance Off.*

Billing Code: 4510-30

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act; Lower Living Standard Income Level

Agency: Employment and Training Administration, Labor.

Action: Notice of determination of lower living standard income level.

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SUMMARY: Under Title I of the Workforce Investment Act (Public Law 105-220), the Secretary of Labor annually determines the Lower Living Standard Income Level (LLSIL) for uses defined in the Law. WIA defines the term "Low Income Individual" as one who qualifies under various criteria, including an individual who received income that does not exceed the higher of the poverty line or 70 percent of the lower living standard income level. This issuance provides the Secretary's annual LLSIL for 2000 and references the current 2000 Health and Human Services "Poverty Guidelines."

EFFECTIVE DATE: This notice is effective on May 12, 2000

ADDRESSES: Send written comments to: Mr. Ron Putz, Office of Adult Services, Employment and Training Administration, Department of Labor, Room N-4671, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Putz, Telephone 202-219-7694 x134; Fax (202) 219-0376 (these are not toll free numbers).

SUPPLEMENTARY INFORMATION: The purpose of the Workforce Investment Act (WIA) is "to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation."

The LLSIL is used for several purposes under WIA: specifically, WIA Section 101(25) defines the term "low income individual for eligibility purposes" Sections 127(b)(2)(C) and 132(b)(1)(iii)(IV) define the terms "disadvantaged adult," and "disadvantaged youth" in terms of the poverty line or LLSIL for purposes of State allotments. The Governor and State/local Workforce Investment Boards need the LLSIL for determining eligibility for youth, eligibility for employed adult/dislocated workers for certain services, and for the reauthorized Work



Opportunity Tax Credit (WOTC). We encourage the Governors and State/local Workforce Investment Boards to consult WIA and its Regulations and Preamble for more specific guidance in applying the LLSIL to program requirements. The Department of Health and Human Services published the annual update of the poverty-level guidelines in the Federal Register at 65, Fed. Reg. 7555, (Feb. 15, 2000). The HHS poverty-level guidelines may also be found on the Internet at <http://aspe.hhs.gov/poverty/00.htm>. ETA plans to have the 2000 LLSIL available on its website at: <http://www.wdsc.org/llsil/llsil00.htm>.

WIA section 101(24) defines the LLSIL as "that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary [of Labor] based on the most recent lower living family budget issued by the Secretary." The most recent lower living family budget was issued by the Secretary of Labor in the fall of 1981. The four-person urban family budget estimates, previously published by the Bureau of Labor Statistics (BLS), provided the basis for the Secretary to determine the LLSIL. BLS terminated the four-person family budget series in 1982, after publication of the Fall 1981 estimates. Currently BLS provides current data to ETA, from which it develops the LLSIL tables.

The Employment and Training Administration (ETA) published the 1999 updates to the LLSIL in the Federal Register on May 14, 1999, at 64 FR 26452. This notice again updates the LLSIL to reflect cost of living increases for 1999 by applying the BLS provided percentage change in the December 1999 Consumer Price Index for All Urban Consumers (CPI-U), compared with the December 1998 CPI-U, to each of the May 14, 1999 LLSIL figures. Those updated figures for a family of four are listed in Table 1 below by region for both metropolitan and nonmetropolitan areas. Figures in all of the accompanying tables are rounded up to the nearest ten. Since "low income individual," "disadvantaged adult, and "disadvantaged youth" may be determined by family income at 70 percent of the LLSIL, those figures are listed below as well.

Jurisdictions included in the various regions, based generally on Census Divisions of the U.S. Department of Commerce, are as follows:

Northeast	
Connecticut	New York
Maine	Pennsylvania
Massachusetts	Rhode Island
New Hampshire	Vermont
New Jersey	Virgin Islands
Midwest	
Illinois	Missouri
Indiana	Nebraska
Iowa	North Dakota
Kansas	Ohio
Michigan	South Dakota
Minnesota	Wisconsin

South	
Alabama	Louisiana
American Samoa	Marshall Islands
Arkansas	Maryland
Delaware	Mississippi
District of Columbia	Micronesia
Florida	North Carolina
Georgia	Tennessee
Northern Marianas	Texas
Oklahoma	Virginia
Palau	West Virginia
Puerto Rico	
South Carolina	
Kentucky	
West	
Arizona	Nevada
California	New Mexico
Colorado	Oregon
Idaho	Utah
Montana	Washington
Wyoming	

Additionally, separate figures have been provided for Alaska, Hawaii, and Guam as indicated in Table 2 below.

For Alaska, Hawaii, and Guam, the year 2000 figures were updated from the May 14, 1999 "State Index" based on the ratio of the urban change in the State (using Anchorage for Alaska and Honolulu for Hawaii and Guam) compared to the West regional metropolitan change, and then applying that index to the West regional metropolitan change.

Data on 23 selected Metropolitan Statistical Areas (MSA's) are also available. These are based on semiannual CPI-U changes for a 12 month period ending in December 1999. The updated LLSIL figures for these MSA's and 70 percent of the LLSIL are reported in Table 3.

Table 4 is a listing of each of the various figures at 70 percent of the updated 2000 LLSIL for family sizes of one to six persons. For families larger than six persons, an amount equal to the difference between the six-person and the five-person family income levels should be added to the six-person family income level for each additional person in the family. Where the poverty level for a particular family size is greater than the corresponding LLSIL figure, the figure is indicated in parentheses. Table 5, 100 percent of LLSIL, is used to determine self-sufficiency as noted at §663.230 of WIA Interim Final Regulations and WIA section 134(d)(3)(A)(ii).

## Use of Data

Governors should designate the appropriate LLSIL's for use within the State from Tables 1 through 3. Tables 4 and 5 may be used with any of the levels designated. The Governor's designation may be provided by disseminating information on Metropolitan Statistical Areas (MSA's) and metropolitan and nonmetropolitan areas within the State, or it may involve further calculations. For example, the State of New Jersey may have four or more LLSIL figures: metropolitan, nonmetropolitan, for portions of the State in the New York City MSA, and for those in the Philadelphia MSA. If a Workforce Development Area includes areas that would be covered by more than one figure, the Governor may determine which is to be used. Under 20 CFR 661.120, a State's policies and measures for the workforce investment system will be accepted by the Secretary to the extent that they are not inconsistent with the WIA and the WIA regulations.

## Disclaimer on Statistical Uses

It should be noted that the publication of these figures is only for the purpose of meeting the requirements specified by WIA as defined in the law and regulations. BLS has not revised the lower living family budget since 1981, and has no plans to do so. The four-person urban family budget estimates series has been terminated. The CPI-U adjustments used to update the LLSIL for this publication are not precisely comparable, most notably because certain tax items were included in the 1981 LLSIL, but are not in the CPI-U. Thus, these figures should not be used for any statistical purposes, and are valid only for those purposes under WIA as defined in the law and regulations.

Signed at Washington, DC, this 5th day of May, 2000.

Shirley M. Smith  
Administrator, Office of Adult Services

Attachments

Table 1 – Lower Living Standard Income Level (for a family of four persons) By Region<sup>1</sup>

Region <sup>2</sup>	1999 Adjusted LLSIL	2000 Factor	2000 Adjusted LLSIL	70 percent LLSIL
Northeast				
Metro.....	28,670	1.025	29,390	20,580
Non- Metro <sup>3</sup> .....	28,320	1.024	29,000	20,300
Midwest				
Metro.....	26,580	1.029	27,360	19,250
Non- Metro <sup>3</sup> .....	25,150	1.025	25,780	18,050
South				
Metro.....	25,140	1.026	25,800	18,060
Non- Metro <sup>3</sup> .....	24,050	1.019	24,510	17,160
West				
Metro.....	28,270	1.029	29,090	20,370
Non- Metro <sup>3</sup> .....	27,770	1.025	28,470	19,930

<sup>1</sup>For ease of use, these figures have been rounded to the next highest ten dollars.

<sup>2</sup>Metropolitan area measures were calculated from the weighted average CPI-Us for city size classes A and B/C. Non-metropolitan area measures were calculated from the CPI-Us for city size class D.

<sup>3</sup>Non-metropolitan area percent changes for the Northeast region are no longer available. The Non-metropolitan percent change was calculated using the U.S. average CPI-U for city size Class D.

<sup>4</sup>Non-metropolitan area percent changes for the West region are unpublished data.

Table 2 – Lower Living Standard Income level (for a family of four persons) – Alaska, Hawaii and Guam<sup>1</sup>

Region	1999 Adjusted LLSIL	2000 Factor	2000 Adjusted LLSIL	70 percent LLSII
Alaska				
Metro.....	\$35,820	1.009	\$36,150	\$25,300
Non-Metro <sup>2</sup> .....	\$34,860	1.025	\$35,740	\$25,020
Hawaii-Guam				
Metro.....	\$37,290	1.016	\$37,890	\$26,530
Non-Metro <sup>2</sup> .....	\$37,220	1.025	\$38,160	\$26,710

<sup>1</sup>Rounded to the next highest ten dollars.

<sup>2</sup>Non-Metropolitan percent changes for Alaska, Hawaii and Guam were calculated from the CPI-US for city size Class D in the Western Region

Table 3 – Lower Living Standard Income Level (for a family of four persons) 23 MSAs<sup>1</sup>

Metropolitan Statistical Areas (MSAs)	1999 Adjusted LLSIL	2000 Factor	2000 Adjusted LLSIL	70 percent LLSIL
Anchorage, AK	\$35,820	1.009	\$36,150	\$25,300
Atlanta, GA	\$25,250	1.027	\$25,940	\$18,160
Boston-Brockton-Nashua, MA-NH-ME-CT	\$30,420	1.03	\$31,340	\$21,940
Chicago-Gary-Kenosha, IL-IN-WI	\$27,980	1.023	\$28,630	\$20,040
Cincinnati-Hamilton, OH-KY-IN	\$26,620	1.032	\$27,480	\$19,240
Cleveland-Akron, OH	\$27,730	1.018	\$28,240	\$19,770
Dallas-Ft Worth, TX	\$23,920	1.034	\$24,740	\$17,320
Denver-Boulder-Greeley, CO	\$27,910	1.03	\$28,750	\$20,130
Detroit-Ann Arbor-Flint, MI	\$25,820	1.027	\$26,520	\$18,570
Honolulu, HI	\$37,290	1.016	\$37,890	\$26,530
Houston-Galveston-Brazoria, TX	\$23,340	1.018	\$23,770	\$16,640
Kansas City, MO-KS	\$25,800	1.024	\$26,420	\$18,500
Los Angeles-Riverside-Orange County, CA	\$28,630	1.024	\$29,320	\$20,530
Milwaukee-Racine, WI	\$26,890	1.023	\$27,510	\$19,260
Minneapolis-St Paul, MN-WI	\$26,130	1.036	\$27,080	\$18,950
New York-Northern New Jersey-Long Island, NY-NJ-CT-PA	\$29,950	1.022	\$30,610	\$21,430
Philadelphia-Wilmington-Atlantic City, PA-NJ- DE-MD	\$27,890	1.025	\$28,590	\$20,020
Pittsburgh, PA	\$26,860	1.021	\$27,430	\$19,200
St Louis, MO-IL	\$25,490	1.011	\$25,780	\$18,040
San Diego, CA	\$29,240	1.036	\$30,300	\$21,210
San Francisco-Oakland-San Jose, CA	\$29,690	1.043	\$30,970	\$21,680
Seattle-Tacoma-Bremerton, WA	\$31,010	1.03	\$31,950	\$22,360
Washington-Baltimore, DC-MD-VA-WV <sup>2</sup>	\$30,320	1.023	\$31,020	\$21,720

<sup>1</sup>Rounded to the next highest ten dollars.<sup>2</sup>Baltimore and Washington, D.C. are now calculated as a single metropolitan statistical area.

Table 4 – Seventy Percent of Updated 2000 Lower Living Standard Income Level (LLSIL), by Family Size

To use the seventy percent LLSIL value, where it is stipulated for WIA programs, individuals must begin by locating the region or metropolitan area where they reside. These are listed in Tables 1, 2 and 3. Individuals must locate their region or metropolitan statistical area and then find the seventy percent LLSIL amount for that location. The seventy percent LLSIL figures are listed in the last column to the right on each of the three tables. These figures apply to a family of four. Larger and smaller family eligibility is based on a percentage of the family of four. To determine eligibility for other size families consult the table below.

To use Table 4, locate the seventy percent, LLSIL value that applies to the individual's region or metropolitan area from Tables 1, 2 or 3. Find the same number in the "family of four" column of Table 4. Move left or right across that row to the size that corresponds to the individual's family unit. That figure is the maximum household income the individual is permitted in order to qualify as economically disadvantaged under WIA.

Where the HHS poverty level for a particular family size is greater than the corresponding LLSIL figure, the LLSIL figure is indicated in parentheses. Individuals from these size families may consult the 2000 HHS poverty guidelines found in the Federal Register, Vol. 65, No. 31, February 15, 2000, pp. 7555-7557 (on the Internet at <http://aspe.hhs.gov/poverty/00poverty.htm>) to find the higher eligibility standard. Individuals from Alaska and Hawaii should consult the HHS guidelines for the generally higher poverty levels that apply in their states.

Family of One	Family of Two	Family of Three	Family of Four	Family of Five	Family of Six
(\$6,000)	(\$9,820)	(\$13,480)	(\$16,640)	(\$19,640)	\$22,970
(\$6,180)	(\$10,130)	(\$13,900)	\$17,160	\$20,250	\$23,690
(\$6,240)	(\$10,220)	(\$14,030)	\$17,320	\$20,440	\$23,910
(\$6,500)	(\$10,650)	\$14,620	\$18,040	\$21,290	\$24,900
(\$6,500)	(\$10,650)	\$14,630	\$18,050	\$21,300	\$24,910
(\$6,510)	(\$10,660)	\$14,630	\$18,060	\$21,320	\$24,930
(\$6,540)	(\$10,720)	\$14,710	\$18,160	\$21,430	\$25,070
(\$6,660)	(\$10,920)	\$14,990	\$18,500	\$21,830	\$25,530
(\$6,690)	(\$10,960)	\$15,050	\$18,570	\$21,920	\$25,630
(\$6,830)	(\$11,190)	\$15,350	\$18,950	\$22,370	\$26,160
(\$6,900)	\$11,300	\$15,520	\$19,150	\$22,600	\$26,430
(\$6,920)	\$11,300	\$15,560	\$19,200	\$22,660	\$26,500
(\$6,930)	\$11,360	\$15,590	\$19,240	\$22,710	\$26,560
(\$6,940)	\$11,370	\$15,610	\$19,260	\$22,730	\$26,580
(\$7,120)	\$11,670	\$16,020	\$19,770	\$23,330	\$27,290
(\$7,180)	\$11,760	\$16,150	\$19,930	\$23,520	\$27,510
(\$7,210)	\$11,820	\$16,220	\$20,020	\$23,630	\$27,630
(\$7,220)	\$11,830	\$16,240	\$20,040	\$23,650	\$27,660
(\$7,250)	\$11,880	\$16,310	\$20,130	\$23,760	\$27,780
(\$7,310)	\$11,980	\$16,450	\$20,300	\$23,960	\$28,020
(\$7,340)	\$12,020	\$16,500	\$20,370	\$24,040	\$28,120
(\$7,400)	\$12,120	\$16,630	\$20,530	\$24,230	\$28,340
(\$7,410)	\$12,150	\$16,670	\$20,580	\$24,290	\$28,410
(\$7,640)	\$12,520	\$17,190	\$21,210	\$25,030	\$29,270
(\$7,720)	\$12,650	\$17,360	\$21,430	\$25,290	\$29,580
(\$7,810)	\$12,800	\$17,570	\$21,680	\$25,590	\$29,920
(\$7,820)	\$12,820	\$17,600	\$21,720	\$25,630	\$29,980
(\$7,900)	\$12,950	\$17,780	\$21,940	\$25,890	\$30,280
(\$8,050)	\$13,200	\$18,120	\$22,360	\$26,390	\$30,860
\$9,010	\$14,770	\$20,270	\$25,020	\$29,530	\$34,530
\$9,110	\$14,930	\$20,500	\$25,300	\$29,860	\$34,920
\$9,560	\$15,660	\$21,490	\$26,530	\$31,310	\$36,620
\$9,620	\$15,760	\$21,640	\$26,710	\$31,520	\$36,860

Table 5 – Updated 2000 LLSIL (100%), By Family Size

To use the LLSIL to determine the minimum level for establishing self-sufficiency criteria at the state or local level, begin by locating the metropolitan area or region from Table 1,2 or 3. The individual must locate their region or metropolitan statistical area and then find the 2000 Adjusted LLSIL amount for that location. These figures apply to a family of four. Locate the corresponding number in the family of four column below. Move left or right across that row to the size that corresponds to the individual's family unit. That figure is the minimum figure States must set for determining whether employment leads to self-sufficiency under WIA programs.

Family of One	Family of Two	Family of Three	Family of Four	Family of Five	Family of Six
\$8,560	\$14,030	\$19,260	\$23,770	\$28,050	\$32,810
\$8,830	\$14,470	\$19,860	\$24,510	\$28,930	\$33,830
\$8,910	\$14,600	\$20,040	\$24,740	\$29,200	\$34,150
\$9,290	\$15,220	\$20,890	\$25,780	\$30,430	\$35,580
\$9,290	\$15,230	\$20,900	\$25,800	\$30,450	\$35,610
\$9,340	\$15,310	\$21,020	\$25,940	\$30,610	\$35,800
\$9,520	\$15,590	\$21,410	\$26,420	\$31,180	\$36,460
\$9,550	\$15,650	\$21,490	\$26,520	\$31,300	\$36,600
\$9,750	\$15,980	\$21,940	\$27,080	\$31,960	\$37,380
\$9,850	\$16,150	\$22,170	\$27,360	\$32,290	\$37,760
\$9,880	\$16,190	\$22,220	\$27,430	\$32,370	\$37,860
\$9,900	\$16,220	\$22,260	\$27,480	\$32,430	\$37,930
\$9,910	\$16,240	\$22,290	\$27,510	\$32,470	\$37,970
\$10,170	\$16,670	\$22,880	\$28,240	\$33,330	\$38,980
\$10,250	\$16,800	\$23,070	\$28,470	\$33,600	\$39,290
\$10,300	\$16,870	\$23,160	\$28,590	\$33,740	\$39,460
\$10,310	\$16,900	\$23,200	\$28,630	\$33,790	\$39,510
\$10,350	\$16,970	\$23,290	\$28,750	\$33,930	\$39,680
\$10,440	\$17,110	\$23,490	\$29,000	\$34,220	\$40,020
\$10,480	\$17,170	\$23,570	\$29,090	\$34,330	\$40,150
\$10,560	\$17,300	\$23,750	\$29,320	\$34,600	\$40,470
\$10,590	\$17,350	\$23,810	\$29,390	\$34,690	\$40,560
\$10,910	\$17,880	\$24,550	\$30,300	\$35,760	\$41,820
\$11,020	\$18,060	\$24,800	\$30,610	\$36,120	\$42,250
\$11,150	\$18,280	\$25,090	\$30,970	\$36,550	\$42,740
\$11,170	\$18,310	\$25,130	\$31,020	\$36,610	\$42,810
\$11,290	\$18,500	\$25,390	\$31,340	\$36,990	\$43,250
\$11,510	\$18,860	\$25,880	\$31,950	\$37,710	\$44,100
\$12,870	\$21,090	\$28,950	\$35,740	\$42,180	\$49,330
\$13,020	\$21,330	\$29,290	\$36,150	\$42,660	\$49,890
\$13,650	\$22,360	\$30,700	\$37,890	\$44,720	\$52,290
\$13,740	\$22,520	\$30,910	\$38,160	\$45,030	\$52,670



**DBE COMMITMENTS**  
**(Must be Submitted Prior to Award of Contract)**

Award Date \_\_\_\_\_

Project No. \_\_\_\_\_ Key # \_\_\_\_\_ Location \_\_\_\_\_

Contractor \_\_\_\_\_ Contractor EEO Officer \_\_\_\_\_

\_\_\_\_\_  
 Signature of Preparer                      Date                      Phone Number                      Contract Amount \$ \_\_\_\_\_ FA Amount \$ \_\_\_\_\_

If goals are not met, it is mandatory that pages 5 and 6 titled "DBE Good Faith Effort" be completed. Failure to complete these forms will prevent contract award. Refer to Civil Right Special Provisions, Part III, for more detail. Award of contract is contingent on good faith efforts to provide opportunity for DBE participation in this project.

Goal for DBE Subcontractors and Suppliers for this project: \$ \_\_\_\_\_ ( \_\_\_\_\_ %)

## PART I: SUMMARY OF DBE GOAL ATTAINMENT

- |    |  |          |
|----|--|----------|
| 1. | One hundred percent (100%) of total amount to be subcontracted to DBE subcontractors:  | \$ _____ |
| 2. | One hundred percent (100%) of total amount to be paid DBE Equipment Lessors:   | \$ _____ |
| 3. | One hundred percent (100%) of total amount to be paid to DBE Manufacturers, (e.g., asphalt emulsions, cutback asphalts, fabricated signs, etc.) or Delivery Companies: | \$ _____ |
| 4. | Sixty percent (60%) of total amount to be paid to DBE Regular Dealers/Suppliers:   | \$ _____ |
| 5. | Net fee of DBE Brokers or Bonding Agents:  | \$ _____ |

Total \$ \_\_\_\_\_ ( \_\_\_\_\_ %)

**DO NOT WRITE IN BOXES – FOR DEPARTMENT USE ONLY**

FEDERAL AID % _____	APPROVED _____	NOT APPROVED _____	By _____	Idaho Transportation Department	Date _____
FEDERAL AID \$ _____					

NOTE: Supplies and/or equipment purchased or leased by a DBE firm from the Prime Contractor or its affiliate cannot be counted towards the project goal.

PART II: SUBCONTRACTORS (LIST ALL SOLICITATIONS AND QUOTATIONS, INCLUDING NON-DBE)

NAME & ADDRESS OF SUBCON Quotes Solicited From Or Received From	DBE	NON DBE	ITEMS QUOTED List By Contract Item Numbers And Briefly Describe Proposed Work	AMOUNT QUOTED BY SUBCON; If No Response Enter NONE	COMMIT TO USE; Enter YES or NO	IF DBE SUBCONTRACTOR IS NOT SELECTED, DESCRIBE WHY

PART II: SUBCONTRACTORS (LIST ALL SOLICITATIONS AND QUOTATIONS, INCLUDING NON-DBE)

NAME & ADDRESS OF SUBCON Quotes Solicited From Or Received From	DBE	NON DBE	ITEMS QUOTED List By Contract Item Numbers And Briefly Describe Proposed Work	AMOUNT QUOTED BY SUBCON; If No Response Enter NONE	COMMIT TO USE; Enter YES or NO	IF DBE SUBCONTRACTOR IS NOT SELECTED, DESCRIBE WHY

PART III: SUPPLIES, MANUFACTURERS, LESSORS AND DELIVERY FIRMS

NAME & ADDRESS OF CO Quotes Solicited Or Received From	DBE	NON DBE	LIST ITEMS TO BE SUPPLIED (S), LEASED (L), MANUFACTURED (M), OR DELIVERED (D), BY CONTRACT ITME NUMBERS AND BRIEFLY DESCRIBE PROPOSED ITEMS		AMOUNT QUOTED If No Response Enter NONE	COMMIT TO USE; Enter YES or NO	IF DBE IS NOT SELECTED DESCRIBE WHY
				S-L-M-D			

**SUMMARY OF DBE GOOD FAITH EFFORT**

If the dollar value goals for DBE participation in this project have not been met, the Contractor is required to complete the following questions to describe efforts to obtain DBE participation. Each following effort will require an explanation. COPIES OF CORRESPONDENCE, RETURN RECEIPTS, TELEPHONE LOGS, OR OTHER DOCUMENTATION WILL BE REQUIRED TO SUPPORT GOOD FAITH EFFORTS

ATTACH ADDITIONAL SHEETS, IF NECESSARY

1. Has the contractor advertised in general circulation, trade association and minority-focus media concerning the subcontracting opportunities? Explain
  
  
  
  
  
  
  
  
  
  
2. Has the Contractor provided written notice to a reasonable number of specific DBEs that their interest in the contract was being solicited, in sufficient time to allow the DBEs to participate effectively? Submit a copy of all correspondence soliciting bids from DBEs. Explain
  
  
  
  
  
  
  
  
  
  
3. Has the Contractor followed up initial solicitation of interest by contacting DBEs to determine with certainty whether the DBEs were interested? Submit telephone logs, letters, etc. to document follow-up activity.
  
  
  
  
  
  
  
  
  
  
4. Has the contractor selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goal, including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation? Explain
  
  
  
  
  
  
  
  
  
  
5. Has the Contractor provided interested DBEs with adequate information about the plans, specifications and requirements of the contract? Describe what action was taken.

(over)

**SUMMARY OF DBE GOOD FAITH EFFORT, Continued**

6. Has the Contractor negotiated in good faith with interested DBEs not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities? Explain.
7. Has the Contractor made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by the Idaho Transportation Department or Contractor? Explain.
8. Has the Contractor made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
9. In addition to Number 1 above, has the Contractor effectively used the services of available minority community organizations, minority contractors' groups, local, state and federal minority business assistance offices and other organizations that provide assistance in identifying and subcontracting with DBEs? Explain.
10. Describe any other efforts not covered by the above eight points that may indicate the Contractor's affirmative action to obtain DBE participation in this project.

## INSTRUCTIONS FOR COMPLETING EEO COMPLIANCE REVIEW (CONSTRUCTION CONTRACTS ONLY)

READ THE COMPLETE INSTRUCTIONS CONTAINED IN THE APPROVED  
ITD CONTRACT COMPLIANCE PLAN BEFORE COMPLETING THE ITD-86 FORM

### FORM ITD-86

1. Enter the year (e.g. 00) and 01 for the first report, 02 for the second report, and so on.
2. Enter the name/number of the SMSA or EA in which the review is taking place.
3. Indicate whether this is a normal post award review or a consolidated review.
4. Identify whether or not this review covers DBE requirements.
5. Specify type of contractor. If "other" explain.
6. List all Federal-aid contracts currently held by this contractor in the SMSA or EA area being reviewed.  
(Attach additional sheets if necessary).
7. List name and business address of the contractor being reviewed.
8. List name and title of the company Policy Officer. (Should be President, Chairman or Chief Executive Officer for the Company)
9. List name and title of the project officer. (Should be Superintendent, Project Officer, or other person (with title) in charge of the work being reviewed)
10. List name and title of the company EEO Officer. (Obtain copy of letter appointing the EEO Officer)
11. Mark in the appropriate space as to whether or not there is a formal EEO policy.
12. Mark in the appropriate space as to whether or not there is a formal Affirmative Action Plan.
13. Enter the date of the earliest contract listed on No. 6. (Establishes beginning date of the review period)
14. Enter estimated date of when contract is to be substantially completed.
15. Enter the anticipated date that the contractor will reach peak employment. (Identify by month and year)
16. Enter the estimated number of people that will be employed at the anticipated date of peak employment.
17. List all subcontractors, suppliers, and vendors for each project identified under No. 6.  
(Attach additional sheets if necessary)
18. List the established DBE goal if applicable.
19. Mark in the appropriate space as to whether or not the DBE firms identified have had an ITD-1701, Commercially Useful Function (CUF) Report completed. Attach copies of all ITD-1701 form(s) on the DBE firms currently working on the job.
20. List minority and women owned firms that were solicited, regarding the projects of this review, for subcontracting opportunities. (These firms will be in addition to the firms working on the projects)
21. List employment referral sources, actually used by the contractor within the SMSA or EA area to fill project vacancies. Compare the contractor's list with a comprehensive list you have prepared to determine if the contractor has made a reasonable effort to recruit minorities and women. Check the documentation of the requests, verifying dates, job specifics, etc.
22. Enter information regarding union affiliation, referral and training.

23. List all new hires, rehires, and recalls by the contractor in the SMSA or EA area on the project(s) being reviewed. Information should be from the beginning date of the review period to the review date.
24. List all promotions that have taken place during the review period.
25. List all terminations and layoffs that have taken place during the review period.
26. Enter the total number of employees, including trainees that have been employed by the contractor on the projects being reviewed during the review period. (Employees working in multiple crafts can only be listed in one craft. Therefore, the main craft where the employee has the most hours will be used)
27. Enter the total number of Training Special Provision (TSP) hours allocated to the contractor on the projects being reviewed.  
  
**NOTE:** The primary purpose of the TSP program is to provide opportunities for minorities and women to advance in the various crafts. It is expected that minorities and women will fill the contractor's training hour allocation(s), particularly if minorities and women are underrepresented in any craft.
28. Enter training hours expended on the project(s) under review. Off-site hours may not be included unless the training is continually and is pre-approved by ITD.
29. Review and compare information obtained under No. 26 and No. 27 and consider the amount and type of work remaining to be done (plus any other factors) to determine whether the training hours allocated are likely to be met. If the answer is no, explain reason and include information in report summary, under item 30.
30. A. Check for:
  - Contractor's EEO Policy
  - Subcontractors' EEO Policy (if working)
  - OFCCP-1420, EEO Is the Law
  - Idaho Law Prohibits Discrimination in Employment (Idaho Human Rights Commission)B. Letter of form soliciting assistance from the Union(s) to refer minorities and women. Should include request for written response from the Union to document. Obtain copies of all request(s) and Union response(s).  
C. Copies of publications (if any) showing "an equal opportunity employer."  
D. Verify communities where publications were made.  
E. Inspect project facilities for non-segregation.  
F. Verify that facilities are actually non-segregated.  
G. Verify required documents and reports required by others are being submitted.  
H. Verify compliance findings of other agencies.  
I. Verify that purchase orders, subcontracts, and any bargaining agreements have appropriate clauses.  
J. Through L. A determination of "NO" regarding any of these 3 items will result in a non-compliance finding. A non-compliance finding should be noted in the summary and must be addressed in either a Voluntary Corrective Action Plan (VCAP) or a Show Cause Notice (SCN), as appropriate.  
M. Verify status of any complaints of alleged discrimination if applicable.
31. Summarize both positive and negative significant findings or issues. Also evaluate all information provided by the contractor or your own investigation which may not be requested on the ITD-86 but which has an impact on the final compliance decision. Number each issue (finding) and provide ALL documentation, which CLARIFIES and JUSTIFIES the determination that is entered under item 31. Use additional sheets, if necessary.



32. Mark the selection that identifies the determination made from the review. Although this decision is in some respects a judgment call, the following criteria provide some guidance. Criteria which usually indicates that a contractor is:

**IN COMPLIANCE: NO FURTHER ACTION REQUIRED BY CONTRACTOR**

- Contractor has provided all documentation required by 23 CFR 230.
- Contractor has provided EEO in all hiring and personnel actions.

**IN COMPLIANCE: VOLUNTARY CORRECTIVE ACTION PLAN REQUIRED**

- Procedural deficiencies can be corrected within 30 days if the opportunity to do so exists. The Contractor must sign and agree to abide by the terms of a Voluntary Corrective Action Plan, which may be executed at the review or within five working days of the review date.
- Lack of documentation, which can be provided within the 30-day time frame of the VCAP.
- During the term of a VCAP, the contractor is considered to be in compliance. If the VCAP extends beyond the normal 30-day period, the contractor must submit monthly reports until the corrective action is taken. The reports should contain any changes that have occurred and indicate whether anticipated hiring opportunities will take place. If the follow-up review on a VCAP (conducted within a week after the anticipated compliance date) reveals that the contractor has either (1) not corrected the deficiencies, or (2) has not demonstrated a good faith effort to correct the deficiencies, the reviewer must declare the contractor in NON-COMPLIANCE and issue a Show Cause Notice.

**IN NON-COMPLIANCE: REQUIRES A SHOW CAUSE NOTICE**

- The contractor has not met all of the contract requirements under the Federal-aid contract.
- The contractor has not provided EEO in their hiring and other personnel actions.
- The contractor has not met their commitment to correct deficiencies identified in a VCAP and cannot demonstrate a good faith effort to do so.

33. Sign and date form, then within 7 days of the on-site review date provide to the Contract Compliance Officer, the original and a copy of the ITD-86 form with all supplemental information supplied by the contractor or developed by you to justify the determination identified under item 31. The Contract Compliance Officer will sign and date the ITD-86 form then submit it to the FHWA Division Office, within 15 days of the on-site review date. This submittal will include the original and a copy of the ITD-86 form with all supplemental information supplied by the contractor or developed to justify the determination identified under item

34. If FHWA concurs with ITD's determination they will sign and return the last page of the ITD-86 form showing their concurrence.

CONTRACTOR EEO COMPLIANCE REPORT

1. REPORT NO ID-00-\_\_\_\_\_ DISTRICT \_\_\_\_\_ DATE OF REVIEW \_\_\_\_\_
2. SMSA \_\_\_\_\_ OR EA \_\_\_\_\_
3. THIS IS A COMPREHENSIVE, ON SITE, \_\_\_\_\_ POST AWARDED, OR \_\_\_\_\_ CONSOLIDATED REVIEW OF A FEDERALLY ASSISTED PROJECT UNDER THE AUTHORITY OF SECTION 22 [A] OF THE FEDERAL-AID HIGHWAY ACT OF 1968, 23 U.S.C. 140 [A].
4. THIS REVIEW ALSO COVERS DBE PARTICIPATION AS REQUIRED UNDER 49 C.F.R. PART 26 YES \_\_\_\_\_ NO \_\_\_\_\_
5. CONTRACTOR TYPE: PRIME \_\_\_\_\_, SUB \_\_\_\_\_, SUPPLIER \_\_\_\_\_, OTHER \_\_\_\_\_, DBE \_\_\_\_\_.
6. FEDERAL-AID PROJECTS:

Project Number and/or Contract Number	Location of Work	Contract Value

7. NAME AND ADDRESS OF CONTRACTOR: \_\_\_\_\_
8. NAME AND TITLE OF POLICY OFFICER: \_\_\_\_\_
9. NAME AND TITLE OF PROJECT OFFICER: \_\_\_\_\_
10. NAME AND TITLE OF COMPANY EEO OFFICER: \_\_\_\_\_
11. HAS THE CONTRACTOR DEVELOPED AN EEO POLICY? YES \_\_\_\_\_ NO \_\_\_\_\_
12. HAS THE CONTRACTOR DEVELOPED A SEPARATE AFFIRMATIVE ACTION PLAN? YES \_\_\_\_\_ NO \_\_\_\_\_
13. BEGINNING DATE OF FIRST FA HIGHWAY CONTRACT IN AREA \_\_\_\_\_
14. ESTIMATED COMPLETION DATE OF ALL FA HIGHWAY CONTRACTS IN AREA \_\_\_\_\_
15. DATE OF ANTICIPATED PEAK EMPLOYMENT \_\_\_\_\_
16. ESTIMATED NUMBER OF EMPLOYEES AT PEAK EMPLOYMENT \_\_\_\_\_
17. CONTRACTOR'S SUPPLIERS, VENDORS AND SUBCONTRACTORS FOR EACH PROJECT LISTED IN 6 ABOVE.

SUBCONTRACTOR (SC), SUPPLIER (S), OR VENDOR (V)

Project Numbers	Company Name	SC, S, or V	Contract Value	Work Status	DBE	*

\*SUBCONTRACTS REVIEWED FOR REQUIRED INCLUSIONS (PR-1273)

18. ESTABLISHED DBE GOAL \_\_\_\_\_%, if applicable.
19. COMMERCIALY USEFUL FUNCTION OF DBE FIRMS VERIFIED: YES \_\_\_\_\_ NO \_\_\_\_\_
20. MINORITY AND WOMEN OWNED FIRMS SOLICITED FOR SUBCONTRACTING OPPORTUNITIES: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Name of Source	Address	Phone Number

Union Title of Identification	Union Local Number	Does Union Have Exclusive Referral Rights		Does Union Sponsor or Participate in Pre-Apprentice, Apprentice or Post-Apprentice, Training Programs?		Does Contractor Sponsor or Participate in Pre-Employment, Apprentice, or Post Employment Training Programs?	
		Yes	No	Yes	No	Yes	No

[illegible][illegible]

**25. TERMINATIONS AND LAYOFFS DURING PERIOD UNDER REVIEW**

JOB CATEGORIES	Total Employees		Total Minorities		Black		Asian		Native American		Hispanic	
	M	F	M	F	M	F	M	F	M	F	M	F
Equipment Operators												
Mechanics												
Truck Drivers												
Ironworkers												
Carpenters												
Cement Masons												
Electricians												
Pipefitters, Plumbers												
Painters												
Laborers												
Others												
TOTAL												

**26. EMPLOYMENT DATA FOR SMSA OR EA – FROM PROJECT BEGINNING TO REVIEW DATE**  
(List employees under one job category only)

JOB CATEGORIES	Total Employees		Total Minorities		Black		Asian		Native American		Hispanic		OJT/TSP Apprentice	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Equipment Operators														
Mechanics														
Truck Drives														
Ironworkers														
Carpenters														
Cement Masons														
Electricians														
Pipefitters, Plumbers														
Painters														
Laborers, Semi-Skilled														
Other														
TOTAL														
OJT/TSP Apprentices														

**27. NUMBER OF TRAINING HOURS ALLOCATED TO PROJECTS IN SMSA OR EA AREA** \_\_\_\_\_

**28. ANALYSIS OF TRAINING DATA**

Project or Contract Number	Training Program OJT/TSP	Trainee's Name	Craft	Male	Female	Minority	Hours Worked to Date

**29. ARE PROJECT TRAINING GOALS LIKELY TO BE MET BY CONCLUSION OF PROJECT?** YES \_\_\_\_\_ NO \_\_\_\_\_

IF NO, EXPLAIN: \_\_\_\_\_  
\_\_\_\_\_

30. ON-SITE AND OTHER VERIFICATIONS

YES	NO	
		A. Are required posters and policies conspicuously displayed?
		B. Have required written notices been sent to unions? (Include copy with report)
		C. Are recruiting publications used to show "an equal opportunity employer"? (Include copy with report)
		D. Are such publications circulated in minority oriented communities? Where?
		E. Has certification regarding use of non-segregated facilities been made?
		F. Are facilities actually provided on a non-segregated basis?
		G. Have other reports required by federal, state, municipal, or other statutes, regulations, directives, ordinances, etc. been submitted?
		H. Have compliance or other reviews made by other agencies resulted in a determination of compliance?
		I. Are prescribed Equal Employment Opportunity clauses included in all applicable purchase orders, subcontracts, and collective bargaining union agreements?
		J. Are applications for employment accepted, and selections made, without regard to race, color, religion, sex, national origin, or age?
		K. Are transfers, wages, training, manpower development, promotions and other employment practices performed on an Equal Employment Opportunity basis?
		L. Have reviews of supervisors' personnel actions taken place?
		M. Have any complaints been received alleging discrimination?

31. SUMMARY: NUMBER EACH ISSUE ADDRESSED, USE ADDITIONAL SHEETS IF NECESSARY.

32. CONTRACTOR IS:

IN COMPLIANCE, NO FURTHER ACTION REQUIRED \_\_\_\_\_

IN COMPLIANCE, VCAP ATTACHED \_\_\_\_\_

NOT IN COMPLIANCE, COPY OF SCN ATTACHED \_\_\_\_\_

33. ITD – REVIEW CONDUCTED BY \_\_\_\_\_  
Signature Title Date

ITD – HEADQUARTERS CONCURRENCE BY \_\_\_\_\_  
Signature Title Date

34. FHWA – IDAHO DIVISION CONCURRENCE BY \_\_\_\_\_  
Signature Title Date

## VOLUNTARY CORRECTIVE ACTION PLAN

PROJECT: \_\_\_\_\_ LOCATION \_\_\_\_\_

A. The following deficiencies were found during the review of \_\_\_\_\_  
on \_\_\_\_\_.

1.

2.

3.

4.

5.

B. The Contractor agrees to correct these as follows:

1.

2.

3.

4.

5.

C. These deficiencies will be corrected by \_\_\_\_\_  
Date

D. ITD will conduct a formal follow-up review on \_\_\_\_\_ (within one week of date entered above) to determine if corrective measures have been taken. If deficiencies have not been corrected, a 30-day Show Cause Notice will be issued. The contractor will be provided a copy of the report prepared as a result of the follow-up review.

\_\_\_\_\_  
Signature of the Contractor

\_\_\_\_\_  
Signature of Authorized ITD Personnel

Date \_\_\_\_\_

Date \_\_\_\_\_

Date

**CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Contractor  
Address  
City, State ZIP Code

Dear \_\_\_\_\_,

The Federal-Aid contract you entered into with the Idaho Transportation Department (ITD) contains certain Civil Rights provisions, which require the contractor to implement a program of Equal Employment Opportunity (EEO). Federal regulations (23 CFR 230 Subpart D) further require that ITD monitor contractor operations to ensure that the provisions are being executed.

In keeping with these requirements, **Company Name** has been selected for a routine Equal Employment Opportunity Review. To reduce the amount of time spent on the on-site portion of this review, please provide the following documentation to this office by **Date/Year**. This will enable ITD to make a partial evaluation of your EEO posture before meeting for the on-site employee interviews and the On-Site Review to take place at **Time** on **Date/Year** at **Place of Meeting**.

- List of all current Federal-Aid projects located in the SMSA/EA area of the review including the value of each
- Names and titles of personnel representing your firm at the on-site review
- Documentation showing authority of company positions
- Name and title of your policy officer
- Name and title of your project officer
- Copy of letter appointing your EEO Officer, indicating name and other title, if appropriate
- Documentation showing EEO officer's background, training, and history with company.
- Brief description of the EEO Officer's job duties and responsibilities.
- Copy of your company's EEO Policy
- Copy of your company's Affirmative Action Plan
- Documentation of meetings or notices to supervisory and non-supervisory personnel discussing or advising employees of your company's EEO policy
- A list of the suppliers, vendors and subcontractors, for each project being reviewed, providing services or supplies valued over \$10,000.00.
- Copy of pages of subcontracts and purchase orders, over \$10,000 showing EEO clauses.
- List of minority or female owned companies contacted as possible subcontractors, vendors, materials suppliers during bid process
- List of all members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees or make recommendation for such actions.
- Documentation of indoctrination of this staff regarding company EEO obligations.

Continued

Date  
Name  
Page 2

- List of company personnel responsible for recruitment.
- Documentation showing training of recruitment personnel on Company EEO hiring procedures.
- A list of all recruiting sources utilized. Attach copies of letters, diaries, etc., documenting requests for minorities/women in specific crafts.
- Copy of application for employment form.
- List of any advertisements with verification of publication (copies of ads).
- Documentation of requests to current employees to refer minorities and or females for work.
- List showing all hiring opportunities during review period by job categories showing total employees, total minorities, and totals by ethnicity (male and female).
- List of all promotions made during review period by race, sex, previous positions, position promoted into, and corresponding wage rates.
- List showing all terminations and layoffs during review period by job categories, race, and sex.
- If a Union contractor, submit a copy of agreement(s).
- Construction employment data for the area/project being reviewed for the current construction season up to the review date. The contractor may use a PR-1391 to submit this information. (Area would be based on the SMSA or EA as stated in the special provisions of the contract.) Information should be listed by job categories and show total employees (male and female) and ethnicity (male and female).
- Copies of annotated payrolls for the review period covered by craft, race, and sex.
- Amount of training hours allocated to the project(s) with an analysis of training data on each trainee/apprentice showing the project, craft, sex, ethnicity and hours worked to date.
- Documentation of steps taken by contractor promoting training opportunity internally and externally.
- Documentation on the status of any discrimination complaint that has been filed against your company or any employee in your company.

After this documentation has been evaluated, ITD staff will visit the project site on     Date     to interview one minority, one non-minority, one woman, and one supervisor and to briefly tour the project site. To expedite this process, please have the following four employees available for a very brief interview at a time and place convenient to you:

#### *LIST EMPLOYEES SELECTED FROM PAYROLL*

*(Note to EEO/ST Coordinators: If the contractor's work or work schedule is such that it would cause a great deal of inconvenience to conduct these interviews all at once and on the same day as the On-Site Review, you can make other arrangements as long as the integrity of the interviews is not compromised. ITD project personnel, who are in daily or frequent contact with the contractor's personnel, and the contractor's representative should not conduct or assist in conducting interviews. However, appropriate project personnel and the contractor's representative **SHOULD** be present at the On-Site Review.)*

Continued



Date  
Name  
Page 3

At the conclusion of the interviews, ITD would like to discuss the preliminary evaluation of the documentation presented and any observations made at the project site.

The following state and federal personnel will be in attendance at the On-Site Review:

- FHWA Representative (by name and title)
- ITD Headquarters Representative (by name and title)
- ITD Project Personnel (by name and title)
- District EEO/ST Coordinator or designated DRI (by name and title)

If you have any questions about the review, please contact me at the District \_\_\_\_ Office, telephone \_\_\_\_\_.

Sincerely,

---

District EEO/ST Coordinator

cc: District Personnel  
CCR  
CCO  
FHWA

SAMPLE

Date

**CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Contractor's Name

Address

City, State ZIP Code

Dear \_\_\_\_\_:

As a result of the review of your Project Number project located at Project Location conducted on Date by the Idaho Transportation Department, it is determined that you are not in compliance with your equal opportunity requirements and that good faith efforts have not been made to meet these requirements in the following areas:

## List of Deficiencies

- 1.
- 2.
- 3.

The Department of Transportation regulations (23 CFR 230) implementing 23 USC 140(a) are applicable to your federal-aid highway construction contract and are controlling in this matter (see Required Contract Provisions, Form PR-1273, Clause II). Section 230.409(h)(7) of these regulations provides that when equal opportunity deficiencies exist, it is necessary that you make a commitment in writing to correct such deficiencies before you may be found in compliance. The commitment must include the specific action that you propose to take to correct each deficiency and the date of completion of such action. The time period allotted shall be no longer than the minimum period necessary to effect the necessary correction. In accordance with instructions issued by the Federal Highway Administration, U.S. Department of Transportation, your written commitment must also provide for the submission of monthly progress reports that shall include a head count of minority and female representation at each level of each trade and a list of minority employees.

You are specifically advised that making the commitment discussed above will not prevent a further determination of noncompliance if it is found that the commitment is not sufficient to achieve compliance.

A compliance conference will be held on Date at the District Number Office located at Address for you to submit and discuss your written commitment. If your written commitment is acceptable and if the commitment is sufficient to achieve compliance, you will be found in compliance at the time the commitment is implemented. You are cautioned, however, that ITD's determination is subject to review by the Federal Highway Administration, U.S. Department of Transportation, and may be disapproved if they do not consider your commitment sufficient to achieve compliance.

Continued

Date  
Name  
Page 2

If you indicate either directly or by inaction that you do not wish to participate in the scheduled conference and do not otherwise show cause within 30 days from receipt of this notice why enforcement proceedings should not be instituted, ITD will commence enforcement proceedings.

If your written commitment is accepted and it is subsequently found that you have failed to comply with its provisions, you will be advised of this determination and formal sanction proceedings will be instituted immediately.

In the event formal sanction proceedings are instituted and the final determination is that a violation of your equal opportunity contract requirements has taken place, any federal-aid highway construction contracts or subcontracts which you hold may be suspended or terminated.

ITD encourages you to take whatever actions necessary to resolve this matter and is anxious to assist you in achieving compliance. Any questions concerning this notice should be addressed to

---

(Name, Address, and Telephone).

Sincerely,

---

District Engineer

bcc: CCR  
CCO  
District Personnel

**CORRECTIVE ACTION PLAN**

DEFICIENCY I: The contractor did not contact sources likely to yield minority employees for recruitment purposes.

COMMITMENT: We will develop a system of written job applications at our home office, which readily identifies minority applicants. In addition to this, as a minimum, we will contact the National Association for the Advancement of Colored People (NAACP), League of Latin American Citizens (LULAC), Urban League, and the Employment Security Office within 20 days to establish a referral system for minority-group applicants and expand our recruitment base. We are in the process of identifying other community organizations and associations that may be able to provide minority applicants and will submit an updated listing of recruitment sources and evidence of contact by DATE.

DEFICIENCY II: The contractor has not made adequate efforts to locate, qualify, and increase skills of minority and female employees and applicants for employment.

COMMITMENT: We will set up an individual file for each apprentice or trainee by DATE in order to carefully screen the progress and ensure that they are receiving the necessary training and prompt promotion upon completion of training requirements. We will establish a goal that at least 50 percent of our apprentices and trainees will be minorities and 15 percent will be female. In addition to the commitment made to Deficiency I, we will conduct a similar identification of organizations able to supply female applicants. Based on our projected personnel needs, we expect to have reached our 50-percent goal for apprentices and trainees by DATE.

DEFICIENCY III: The contractor has made very little effort to ensure subcontractors have meaningful minority group representation among their employees.

COMMITMENT: In cooperation with the Regional Office of Minority Business Enterprise, Department of Commerce, the local NAACP, and the Idaho Transportation Department (ITD) we have identified seven minority-owned contractors that may be able to work on future contracts we may receive. These contractors (identified in the attached list) will be contacted prior to our bidding on all future contracts. In addition, we have scheduled a meeting with all subcontractors currently working on our contracts. This meeting will be held to inform the subcontractors of our intention to monitor their reports and require meaningful minority representation. This meeting will be held on DATE and we will summarize the discussions and current posture of each subcontractor for your review by DATE. Additionally, as requested, we will submit a PR-1391 on DATE, DATE, and DATE. Finally, we will commit ourselves to maintaining at least 20 percent minority and female representation in each trade during the time we are carrying out the above-stated commitments. We plan to have completely implemented all the provisions of these commitments by DATE.

COMPANY NAME will notify the ITD immediately when any union refuses to refer a minority/female when they are available for referral. Such notification will be in writing to the ITD Director. This action will begin DATE, and continue into the future as required by federal-aid contracts.

Continued

\_\_\_\_\_**COMPANY NAME**\_\_\_\_\_ will encourage all current employees to refer minority/female acquaintances interested in work in the construction crafts, to apply for employment with our company. We will make at least one such request in writing to be included with paychecks in the Spring of each year and will keep a record of this action from 1997 into the future.

ITD-2876, Monthly Employment Utilization Reports will be submitted each month to the Idaho Transportation Department until it is determined by ITD through a follow-up review that the deficiencies identified within this Corrective Action Plan have been corrected.

All steps in this Corrective Action Plan will be carried out so as to achieve the maximum effect in promoting the employment, upgrading, training and retention of minorities and females in our company work force on our current and future federal-ad projects in Idaho.

\_\_\_\_\_, President  
NAME

\_\_\_\_\_, EEO Officer  
NAME

**CORRECTIVE ACTION PLAN**

DEFICIENCY: The contractor's workforce is underrepresented in both minority and female work hours within the equipment operators craft due to a lack of recruitment of minority/female focused organizations.

At each hiring opportunity, COMPANY NAME hiring authority will take the following actions:

COMMITMENT I: We will contact the appropriate union (when signatory) and request that they dispatch a minority/female, as they are required to do under the bargaining agreement. We will also inquire about applicants who have been referred to the union.

COMMITMENT II: We will develop a list of minority/female focused organizations that are likely to yield the same, within the above deficient craft. (See attachment A) We will contact each one listed and provide specific information about the employment opportunity (e.g., location of the project, experience needed, wage rates, duration of position, etc.). As part of our systematic, direct, and ongoing recruitment efforts, we will complete follow-ups with the organizations and document those efforts.

COMMITMENT III: We will maintain a hiring log listing all employment actions and results for every hiring opportunity.

COMMITMENT IV: The above Commitments will commence as of DATE, and continue for the duration of the PROJECT NAME.

COMPANY NAME will notify the Idaho Transportation Department (ITD) immediately when any union refuses to refer a minority/female when they are available for referral. Such notification will be in writing to the ITD Director. This action will begin DATE, and continue into the future as required by federal-aid contracts.

COMPANY NAME will encourage all current employees to refer minority/female acquaintances interested in work in the construction crafts, to apply for employment with our company. We will make at least one such request in writing to be included with paychecks in the Spring of each year and will keep a record of this action from 1997 into the future.

ITD-2876, Monthly Employment Utilization Reports will be submitted each month to the Idaho Transportation Department until it is determined by ITD through a follow-up review that the deficiencies identified within this Corrective Action Plan have been corrected.

All steps in this Corrective Action Plan will be carried out so as to achieve the maximum effect in promoting the employment, upgrading, training and retention of minorities and females in our company work force on our current and future federal-aid projects in Idaho.

\_\_\_\_\_, President  
NAME

\_\_\_\_\_, EEO Officer  
NAME

Date

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Contractor's Name  
Address  
City, State ZIP Code

Dear \_\_\_\_\_:

On \_\_\_\_\_ Date \_\_\_\_\_, you received a 30-day show cause notice from this office for failing to implement your contract requirements pertaining to equal employment opportunity.

Your corrective action plan, discussed and submitted at the compliance conference held on \_\_\_\_\_ Date \_\_\_\_\_, has been reviewed and determined to be acceptable. Implementation of your corrective action plan shows that you are now taking the required affirmative action and can be considered to be in compliance. If it should later be determined that your corrective action plan is not being implemented as agreed, this rescission will not prevent a subsequent finding of noncompliance and formal sanction actions will occur.

In view of the above, this letter is to inform you that the 30-day show cause notice of \_\_\_\_\_ Date \_\_\_\_\_ is hereby rescinded. You are further advised that if it is found that you have failed to comply with the provisions of your Corrective Action Plan, formal sanction proceedings will be implemented immediately.

Sincerely,

\_\_\_\_\_  
District Engineer

bcc: CCR  
CCO  
District Personnel  
FHWA

# DISADVANTAGED BUSINESS ENTERPRISE (DBE) JOB-SITE REVIEW COMMERCIALLY USEFUL FUNCTION (CUF) DETERMINATION



PRIME CONTRACTOR: \_\_\_\_\_

PROJECT NUMBER AND NAME: \_\_\_\_\_ KEY NO.: \_\_\_\_\_

1. DBE subcontractor: \_\_\_\_\_

2. DBE's site superintendent/foreman name: \_\_\_\_\_

3. Is the DBE's superintendent/foreman shown on the DBE's payroll? ☐ Yes ☐ No

4. Is he/she shown on the prime contractor's payroll or any other subcontractor's payroll? ☐ Yes ☐ No

If yes, name of contractor/subcontractor: \_\_\_\_\_

5. Are any of the DBE's crew on the prime contractor's payroll or any other subcontractor's payroll? ☐ Yes ☐ No

If yes, list the names and crafts: \_\_\_\_\_

\_\_\_\_\_

6. Does the DBE superintendent/foreman administer his/her work in an independent manner free of interference from the prime contractor? ☐ Yes ☐ No

If no, explain: \_\_\_\_\_

7. Who would the DBE superintendent/foreman contact to put on additional personnel or modify the DBE contract due to changed conditions?

(Name and Title): \_\_\_\_\_

8. Indicate DBE work observed this date: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. List names of DBE's crew as observed (indicate craft):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10. List major, self-propelled equipment used by DBE: \_\_\_\_\_

\_\_\_\_\_

11. Does the equipment have the DBE's markings or emblems? ☐ Yes ☐ No

If another firm's markings are shown, please indicate the name:

\_\_\_\_\_



12. Is the DBE's equipment? ☐ Owned ☐ Leased From: \_\_\_\_\_

If leased, is there a formal agreement identifying the terms and parties? ☐ Yes ☐ No  
(Attach Copy)

Are the rates appropriate (i.e., within the Blue Book rates, etc.)? ☐ Yes ☐ No

If No, why not: \_\_\_\_\_

13. In cases where the DBE contractor furnishes material, who actually pays for it?

Name: \_\_\_\_\_ Title: \_\_\_\_\_

14. Has any other contractor performed substantial amounts of work specified in the DBE's contract? ☐ Yes ☐ No

If yes, please explain: \_\_\_\_\_

15. Has the DBE owner been present on the jobsite? ☐ Yes What % \_\_\_\_\_ ☐ No

16. Are DBE's personnel and equipment under direct supervision of the DBE subcontractor? ☐ Yes ☐ No

17. Does the DBE subcontractor appear to have control over methods of work on its contract items? ☐ Yes ☐ No

18. Based upon the above, do you believe this DBE contractor is an independent business, is executing a distinct element of work, and is actually performing, managing, and supervising the work specified in the DBE's contract? ☐ Yes ☐ No

19. If a CUF is not being performed by the DBE subcontractor, what action was taken to correct the deficiency?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

20. Did the action taken, described in 19 above, correct the deficiency? ☐ Yes ☐ No

If no, explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reviewed By

Title

Date

Copy: Resident Engineer

District EEO/ST Coordinator

CR Manager

# FEDERAL-AID HIGHWAY CONSTRUCTION CONTRACTORS ANNUAL EEO REPORT

OMB NO. 2125-0019

Report For

JULY \_\_\_\_\_ 19 \_\_\_\_

1. CHECK APPROPRIATE BLOCK <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor	2. NAME AND ADDRESS OF FIRM	3. FEDERAL-AID PROJECT NUMBER	4. TYPE OF CONSTRUCTION
5. COUNTY AND STATE	6. PERCENT COMPLETE	7. BEGINNING CONSTR. DATE	8. DOLLAR AMOUNT OF CONTRACT
		9. ESTIMATED PEAK EMPLOYMENT Month and Year (a)      Number of Employees (b)	

## 10. EMPLOYMENT DATA

JOB CATEGORIES	Table A										Table B							
	TOTAL EMPLOYEES		TOTAL MINORITIES		BLACK <i>Not of Hispanic Origin</i>		HISPANIC		AMERICAN INDIAN OR ALASKAN NATIVE		ASIAN OR PACIFIC ISLANDER		WHITE <i>Not of Hispanic Origin</i>		APPRENTICES		ON THE JOB TRAINEES	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
OFFICIALS ( <i>Managers</i> )																		
SUPERVISORS																		
FOREMEN / WOMEN																		
CLERICAL																		
EQUIPMENT OPERATORS																		
MECHANICS																		
TRUCK DRIVERS																		
IRONWORKERS																		
CARPENTERS																		
CEMENT MASONS																		
ELECTRICIANS																		
PIPEFITTERS, PLUMBERS																		
PAINTERS																		
LABORERS, SEMI-SKILLED																		
LABORERS, UNSKILLED																		
<b>TOTAL</b>																		

## Table C

APPRENTICES																		
ON THE JOB TRAINEES																		

11. PREPARED BY: ( <i>Signature and Title of Contractors Representative</i> )	DATE	REVIEWED BY: ( <i>Signature and Title of State Highway Official</i> )	DATE
---	------	---	------

*This report is required by law and regulation (23 U.S.C. 140a and 23 CFR Part 230). Failure to report will result in noncompliance with this regulation.*

# FEDERAL-AID HIGHWAY CONSTRUCTION

OMB NO. 2125-0019

## SUMMARY OF EMPLOYMENT DATA (INCLUDING MINORITY BREAKDOWN) FOR ALL FEDERAL-AID PROJECTS FOR MONTH ENDING JULY 31st, 19\_\_\_\_

NOTE: See Instruction on Reverse

STATE-REGION (5-8)

NUMBER OF PROJECTS (9-12)

TOTAL DOLLAR VALUE (13-23)

01

### EMPLOYMENT DATA

Table A

JOB CATEGORIES	TOTAL EMPLOYEES		TOTAL MINORITIES		BLACK Not of Hispanic Origin		HISPANIC		AMERICAN INDIAN OR ALASKAN NATIVE		ASIAN OR PACIFIC ISLANDER		WHITE Not of Hispanic Origin		APPRENTICES		ON THE JOB TRAINEES	
	9-13	14-18	19-23	24-28	29-33	34-38	39-43	44-48	49-53	54-58	59-63	64-68	69-73	74-78	79-83	84-88	89-93	94-98
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
02 OFFICIALS (Managers)																		
03 SUPERVISORS																		
04 FOREMEN / WOMEN																		
05 CLERICAL																		
06 EQUIPMENT OPERATORS																		
07 MECHANICS																		
08 TRUCK DRIVERS																		
09 IRONWORKERS																		
10 CARPENTERS																		
11 CEMENT MASONS																		
12 ELECTRICIANS																		
13 PIPEFITTERS, PLUMBERS																		
14 PAINTERS																		
15 LABORERS, SEMI-SKILLED																		
16 LABORERS, UNSKILLED																		
17 TOTAL																		

Table B

18 APPRENTICES																		
19 ON THE JOB TRAINEES																		

11. PREPARED BY: (Signature and Title)

DATE

REVIEWED BY: (Signature and Title of State Highway Official)

DATE

This report is required by law and regulation (23 U.S.C. 140a and 23 CFR Part 230). Failure to report will result in noncompliance with this regulation.

**CONTRACTOR EMPLOYEE INTERVIEWS**  
**CONTRACT COMPLIANCE REPORT**  
(One minority, one non-minority, one female, and one supervisor)

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**ALL EMPLOYEES:**

Date: \_\_\_\_\_ 19\_\_

Project: \_\_\_\_\_ Prime Contractor : \_\_\_\_\_

Employee Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

SSN: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Sex: M / F Race: \_\_\_\_\_

Name/Title of Immediate Supervisor: \_\_\_\_\_

How did you learn of this job? \_\_\_\_\_ If union, ID# \_\_\_\_\_

Craft(s) you Perform: \_\_\_\_\_

Who is your employer's EEO Officer? \_\_\_\_\_

Do you know where to find a copy of your company EEO Policy? Yes \_\_\_\_\_ No \_\_\_\_\_

Have you attended any meetings where the EEO Policy was discussed? \_\_\_\_\_

Was the term sexual harassment discussed? \_\_\_\_\_

Do you know what to do if you believe you are being discriminated against? \_\_\_\_\_

Does this contractor have a problem with you being a woman or a minority? \_\_\_\_\_

Do you have any suggestions for solving this problem? \_\_\_\_\_

May we report this problem to your management? \_\_\_\_\_

**TRAINEES ONLY:**

How were you solicited for this training position? \_\_\_\_\_

Do you have a copy of your training program? \_\_\_\_\_

What types of training have you received? \_\_\_\_\_

**SUPERVISORS ONLY:**

How long have you been a supervisor/manager? \_\_\_\_\_

How many employees do you supervise? \_\_\_\_\_

Types of positions you supervise? \_\_\_\_\_

What are your responsibilities regarding EEO? \_\_\_\_\_

Do you have authority to hire/fire/promote employees? \_\_\_\_\_

Does your company take action to locate minorities or women to fill vacancies? To promote? Describe efforts or accomplishments: \_\_\_\_\_

Do you attend or conduct EEO meetings? \_\_\_\_\_

Do you recommend/authorize/approve training for your subordinates? \_\_\_\_\_

How does a laborer become an equipment operator in this company? \_\_\_\_\_

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## CIVIL RIGHTS SPECIAL PROVISIONS

### PART I      Special Equal Employment Opportunity Responsibilities (23 USC 140 and 23 CFR 230, Subpart A and D)

#### 1.      General

- a.      Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required Contract Provisions (Form FHWA-1273) and these Special Provisions which are imposed pursuant to Section 140 of title 23, U.S.C. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.
- b.      The contractor will work with the Idaho Transportation Department and the Federal Government in carrying out equal employment opportunity obligations and in their review of activities under the contract.
- c.      The contractor and all subcontractors holding subcontracts not including material suppliers, of \$10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity. (The equal employment opportunity requirements of Form FHWA-1273 are applicable to material suppliers as well as contractors and subcontractors.) The contractor will include these requirements in every subcontract of \$10,000 or more with such modification of language as is necessary to make them binding on the subcontractor.

#### 2.      Equal Employment Opportunity Policy

The contractor will accept as operating policy the following statement, which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, national origin, age, or disability and to promote the full realization of equal employment opportunity through a positive continuing program:

It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age, or disability. Such action shall include: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and on-the-job training.

#### 3.      Equal Employment Opportunity Officer

The contractor will designate in a letter to the Resident Engineer the equal employment opportunity officer (hereinafter referred to as the EEO Officer) for the project who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

#### 4.      Dissemination of Policy

- a.      All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such actions, will be made fully cognizant of, and will implement, the contractor's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each of grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

- (1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's equal employment opportunity policy and its implementation will be reviewed and explained. The meeting will be conducted by the EEO Officer or other knowledgeable company official.
  - (2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the contractor.
  - (3) All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate company official in the contractor's procedures for locating and hiring minority group employees.
- b. In order to make the contractor's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor will take the following actions:
- (1) Notices and posters setting forth the contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment, and potential employees.
  - (2) The contractor's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

5. Recruitment

- a. When advertising for employees, the contractor will include in all advertisements for employees the notation: An Equal Opportunity Employer. All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
- b. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the contractor will, through the company EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

If the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

- c. The contractor will encourage present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

**6. Personnel Actions**

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age, or disability. The following procedures shall be followed:

- a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all avenues of appeal.

**7. Training and Promotion**

- a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicant for employment.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. If the Training Special Provision is provided under this contract, this subparagraph will be superseded by the Training Special Provision.
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

**8. Unions**

If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association, acting as agent will include the procedures set forth below:

- a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

- b. The contractor will use best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age, or disability.
- c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the Idaho Transportation Department and shall set forth what efforts have been made to obtain such information.
- d. If the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age, or disability, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) If the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, the contractor shall immediately notify the Idaho Transportation Department.

9. Subcontracting

- a. The contractor will use best efforts to solicit bids from and to utilize minority group subcontractors or subcontractors with meaningful minority group and female representation among their employees, in accordance with Part III of these Special Provisions. Contractors shall obtain lists of minority-owned construction firms from state transportation agency personnel.
- b. The contractor will use best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

10. Records and Reports

- a. The contractor will keep such records as are necessary to determine compliance with the contractor's equal employment opportunity obligations. The records kept by the contractor will be designed to indicate:
  - (1) The number of minority and nonminority group members and women employed in each work classification on the project.
  - (2) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force).
  - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees.
  - (4) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.
- b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the Idaho Transportation Department and the Federal Highway Administration.



- c. The contractors shall submit to the Idaho Transportation Department for the month of July, a report indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391.
- d. If the Training Special Provision is provided under this contract, the contractor will be required to collect and report training data.

11. Sanctions

- a. If an investigation or review by the Idaho Transportation Department EEO Office reveals that a Contractor or Subcontractor is in non-compliance with these Special Provisions, the Engineer shall issue a show cause notice to the Contractor or Subcontractor. This written notice shall state the deficiencies found during the review, and shall advise the Contractor or Subcontractor to show cause within 30 days why sanctions should not be imposed. Within the 30 days the Contractor or Subcontractor must show good cause or must provide an acceptable agreement for corrective action.
- b. If the Contractor or Subcontractor does not correct deficiencies and fails to develop, sign and implement a CAP within the 30 days stated in the SCN, the Engineer will withhold all progress payments commencing the day after the expiration of the 30-day period.
- c. If the Contractor or Subcontractor fails to meet the conditions of the CAP, no further show cause notice is required. The Engineer shall immediately advise the District Engineer, who will immediately request a formal hearing before a panel consisting of a selected member of ITD's Legal Counsel, Representatives from Roadway Design, Bureau of Civil Rights, and the District. At this hearing, the contractor shall be given the opportunity to offer rebuttal to the findings. The purpose of the hearing will be to examine all documentation and determine which of the following sanctions will be imposed – not whether they will be imposed. Generally, sanctions will be imposed in sequential order for each incident that civil rights contract provision violations occur, and are brought before a hearing panel. However, ITD reserves the right to impose any sanction listed depending on the severity of the contractor's deficiency.
  - Withhold progress payments until it is determined that the contractor is found in compliance.
  - Suspend the contract, in whole or in part, until the contractor or subcontractor is found to be in compliance with no progress payment being made during this time and no time extension made.
  - Cancel or terminate the contract for cause in accordance with section 108.08 of the Contract Specifications.
  - Assess against the contractor's final payment on this contract or any progress payments on current or future Idaho Federal-Aid projects an administrative remedy by reducing the final payment or future progress payment in an amount equal to 10% of this contract or \$7,700 whichever is less.
- d. The contractor shall have the right to appeal pursuant to Section 105.17 of the Standard Specifications

**PART II      Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity**  
**41 CFR, 60-4:**

1. All Federal and Federally assisted construction contracts and subcontracts in excess of \$10,000 are subject to the Department of Labor regulations contained in 41 CFR § 60-4.
2. 41 CFR § 60-4.2 provides for inclusion in contracts of the goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area. The goals related to this contract area as follows:

**STANDARD METROPOLITON STATISTICAL AREAS  
(SMSA) AND ECONOMIC AREAS (EA)**

	Goals for minority participation in <u>each</u> <u>trade</u>	Goals for female participation in <u>each</u> <u>trade</u>
IDAHO		
165 Non-SMSA Counties: Bear Lake, Franklin and Oneida	5.1%	6.9 %
166 Non-SMSA Counties: Bannock, Bingham, Blaine, Butte, Bonneville, Camas, Caribou, Cassia, Clark, Custer, Fremont, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Power, Teton, and Twin Falls	4.0 %	6.9 %
167 Boise City SMSA Counties: 1080 Boise City, Ada	2.3 %	6.9 %
Non-SMSA Counties: Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington	4.4 %	6.9 %
168 Non-SMSA Counties: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone	3.0 %	6.9 %

The U.S. Department of Labor, Office of Contract Compliance Programs (OFCCP) is the only party with the authority to determine compliance with Executive Order 11246 and 41 CFR Part 60-4. For further information, to obtain a copy of the regulation, or to get clarification on the requirements, the Contractor should contract the OFCCP office in Portland, Oregon:

Office of Federal Contract Compliance Programs  
1515 S.W. 5th, Suite 1030  
Portland, OR 97201  
(503) 326-4112

**Part III      Disadvantaged Business Enterprise Requirements (49CFR26 as authorized in the Intermodal Surface Transportation Efficiency Act, ISTEA, of 1991 and the Transportation Equity Act for the 21<sup>st</sup> Century, TEA-21)**

1. It is the policy of the Idaho Transportation Department (ITD) to ensure that DBEs, as defined in 49 CFR Part 26 have an equal opportunity to receive and participate in USDOT-assisted contracts.

The contractor agrees to ensure that DBEs have the opportunity to participate in the performance of this contract. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, sex, age, or disability in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as ITD deems appropriate.

A DBE must be certified when the ITD-2396 is submitted for consideration toward the contract goal. If a DBE is declared ineligible after the execution of a signed contract, the DBE may complete the work and the DBE's participation will be counted toward the contract goal. If the DBE firm is decertified before the DBE has signed a contract, the prime contractor is obligated to replace the ineligible DBE firm or demonstrate that it has made good faith efforts to do so.

2. The Idaho Transportation Department determines levels of DBE participation on a contract-by-contract basis. Based upon the Idaho Transportation Department's contract goal methodology, the goal for DBE participation on this contract has been determined and shall be as stated in the Special Provisions of the contract. Dollar volumes of participation shall be credited toward the goal based on the actual expenditures made to DBEs that provide a commercially useful function as adjusted under Section 3 of these specifications. (Includes only work actually performed by and paid to the DBE firm, and the cost of equipment, supplies and materials except when equipment, supplies, and materials are purchased and/or leased from the prime contractor.) The bidder hereby certifies that good faith efforts have been taken to seek out and consider DBE firms for work on this project.
3. Fees and expenditures credited to DBE goals are as follows:
  - a. One hundred percent (100%) of the dollar value equal to the distinct clearly defined portion of the work of the contract that the DBE performs with its own forces, in a Joint Venture between a DBE and a non-DBE firm, will be counted toward the DBE goals.
  - b. One hundred percent (100%) of expenditures to a DBE manufacturer, DBE subcontractor, or DBE professional may be counted toward the goal. A manufacturer is defined as a firm that operates or maintains a factory or establishment that produces, on the premises, materials, supplies, articles, or equipment.
  - c. One hundred percent (100%) of expenditures to a trucking firm that uses trucks it owns, insures, and operates using drivers it employs or for leased trucks from another DBE firm including an owner/operator who is certified as a DBE.

May lease trucks from a non-DBE firm, including an owner/operator and receive credit for the total value of the services provided by the non-DBE firm not to exceed the value of the services provided by the DBE-owned trucks. Additional participation by non-DBE firms receives credit only for fees or commission received.

*Example: DBE Firm X uses two of its own trucks on a contract. IT leases two trucks from DBE Firm Y and six trucks from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. In respect to the other two trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.*

A lease must indicate that the DBE has exclusive use of and control over the truck being leased. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

- d. One hundred percent (100%) of fees for equipment leased from a DBE may be counted toward the goal, provided the DBE has ownership or the equipment is registered in the DBE's name. If the DBE obtains the equipment from other sources, only the net fee to the DBE may be credited toward the goal.
  - e. Sixty percent (60%) of expenditures to a DBE regular dealer of supplies who is not a manufacturer may be counted toward the goal. A regular dealer is defined as a firm that owns, operates, or maintains a store, warehouse, or other establishment in which materials, supplies, articles, or equipment are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
  - f. For DBE brokers, packagers and manufacturers' representatives, only the net fee (if reasonable) may be counted toward the goal.
4. The apparent successful bidder will be required to furnish the following information, prior to the award of contract, on Department Form ITD-2396.
- a. Names of certified DBE firms and non-DBE firms that have been solicited or volunteered quotations.
  - b. Identification of the DBE firms and non-DBE firms that the contractor intends to use in the execution of the contract. (A YES entry in the "Commit to Use" column after a DBE firm constitutes a commitment to use that firm for the work items listed.)
  - c. Description of the work and associated dollar amounts each DBE firm and non-DBE firm offered to perform.
  - d. Dollar amount of the participation of each DBE firm to be utilized and total DBE dollar participation anticipated.
  - e. Signed confirmation from the identified DBEs, on the DBE's company letterhead, stating that they are participating in the contract as specified in the prime contractor's commitment.
  - f. Name of the contractor's designated EEO Officer who is responsible for administering the contractor's DBE program.
  - g. Signed commitment, ITD-2396, to use the DBE subcontractor(s) identified on the form – for the contract items specified – to meet the contract goal.

Contractors must use the DBEs committed to on the Form ITD-2396, DBE Commitments, unless the committed DBEs are unable or unwilling to perform because of default or other relevant factors.

5. A contractor's commitment to meet the specified goals will be considered as prima facie evidence that good faith efforts have been made to obtain DBE participation in the contract.
6. If the DBE commitment is below the contract goal, the award of contract will be conditioned on determination by the EEO Contract Compliance Officer of documented good faith efforts by the contractor to be provided on pages 5 and 6 of the ITD-2396.  
Following is a list of efforts that the Idaho Transportation Department will evaluate in determining the contractor's good faith efforts to obtain DBE participation. In addition to what efforts were made, consideration will be given to when they were made, and how intensely the efforts were undertaken.
  - a. Whether the contractor solicited DBEs through all reasonable and available means, allowing adequate time for response, and following up on initial solicitations. Including advertisements in general circulation, trade association, and minority-focus media concerning the subcontracting opportunities.
  - b. Whether the contractor selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation).
  - c. Whether the contractor provided interested DBEs with adequate information about the plans, specifications and requirements of the contract in a timely manner.
  - d. Whether the contractor negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities.
  - e. Whether the contractor made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by the Idaho Transportation Department or contractor.
  - f. Whether the contractor made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
  - g. Whether the contractor effectively used the services of available minority/women community organizations; minority/women contractors' groups; government business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs.
  - h. Whether the contractor was involved in any pre-solicitation or pre-bid meetings that were scheduled to inform DBEs of contracting and subcontracting opportunities.
7. Approval of the contractor's DBE plan, upon which contract award is contingent, requires the contractor to make every reasonable continuing effort throughout the contract to assure that DBE participation remains at a level which will satisfy one of the following requirements:
  - a. Continuing DBE participation equals or exceeds contract goals.
  - b. Continuing DBE participation equals or exceeds the approved level, which is less than contract goals as allowed under Section 6 of these specifications.

Should situations or conditions arise which prevent a DBE firm from completing work originally planned to be accomplished by that firm, the contractor shall take affirmative action to re-establish

DBE participation at a level needed to meet the original contract goal or demonstrate good faith efforts to do so. Revised DBE participation plans must be accepted and approved by the Engineer and the EEO Contract Compliance Officer.

Failure of the contractor to meet the requirements of this specification shall be considered a violation of the contract provisions.

Value of work actually performed by and paid to the DBE firms will be counted toward the contractor's DBE goal once verification of payment is made through receipt of the certification of payment form.

8. The DBE must perform a commercially useful function on the project in order for the expenditures to be counted toward the contract goal. A commercially useful function shall be defined using general industry practices and the provisions of 49 CFR 26. A DBE will be considered to perform a commercially useful function:

- a. when a DBE is responsible for the execution of a distinct element of the work by actually performing, managing and supervising the work involved in accordance with industry practices (except where such practices are inconsistent with DBE regulations and requirements); and
- b. when the firm receives due compensation as agreed upon for the work performed.

9. Breach of Contract/Damages

Whenever the Engineer determines, after investigating and obtaining evidence, that the contractor has not complied with the provisions of this Part III, the Engineer will take the following actions:

- a. Advise the contractor, in writing, that specific (listed) infractions have been observed which must be corrected within five (or fewer) days, and that failure to take corrective action will result in withholding all or part of progress payments.
- b. If deficiencies are not corrected, the Engineer will withhold progress payments.
- c. If violations persist the Engineer will contact the District Engineer and the EEO Contract Compliance Officer for direction on imposing one or more of the following actions:
  - (1) Withhold all or part of progress payments until it is determined that the contractor is found in compliance.
  - (2) Suspend the contract, in whole or in part, until the contractor is found to be in compliance, with no progress payment being made during this time and no time extension made.
  - (3) Cancel or terminate the contract for cause as authorized under Subsection 108.08 of the Contract Specifications.
  - (4) Assess against the contractor's final payment on this contract or any progress payments on current or future Idaho Federal-Aid projects an administrative remedy by reducing the final payment or future progress payment in an amount equal to 10% of this contract or \$7,700 whichever is less.

The contractor shall have the right to appeal pursuant to Subsection 105.17 of the Standard Specifications.

10. Record Keeping

- a. All records relating to the DBE program shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract.
- b. The contractor or subcontractor shall make the records pertaining to the DBE program available for inspection, copying or transcription by authorized representatives of the Department or the FHWA and shall permit such representatives to interview employees as necessary.
- c. Failure to submit the required records upon request or to make such records available may be grounds for sanctions as provided under Section 9.

11. Joint Ventures

- a. DBE firms may enter into Joint Ventures with non-DBE firms to participate in transportation construction projects. DBE joint venture applicants must complete ITD-646b, Schedule B – Information for Determining DBE Joint Venture Eligibility and submit it with all accompanying documentation with their bid.
- b. The DBE partner of the joint venture must have a separate agreement showing the DBE partner's bid items. The agreement must be able to define the DBE partner's Distinct Elements of Work that it will perform with its own forces.
- c. Joint venture applications must be submitted and evaluated on a project-by-project basis. The application will be submitted with the bid documentation.

Approval:

/s/ Sharon K. Scarr  
FHWA Financial/Civil Rights Program Manager

March 26, 2004  
Date

## **TRAINING SPECIAL PROVISION**

This Training Special Provision supersedes 7b subparagraph of the Special Provision entitled "Specific Equal Employment Opportunity Responsibilities".

As part of the contractor's equal employment opportunity affirmative action program, training shall be provided as follows:

The contractors shall provide on-the-job training aimed at developing full journeymen in the type of trade or job classification involved.

The number of training slots to be trained under the special provision will be \_\_\_\_\_. A training slot will consist of 1000 hours.

In the event that a contractor subcontracts a portion of the contract work, he shall determine how many, if any, of the training units are to be trained by the subcontractor, provided, however, that the contractor shall retain the primary responsibility for meeting the training requirements imposed by this special provision. The contractor shall also ensure that this training special provision is made applicable to such subcontract. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training.

The number of trainees shall be distributed among the work classifications underutilized in minorities and women based on the contractor's needs and the availability of journeyman in the various underutilized classifications within a reasonable area of recruitment. Prior to commencing construction, the contractor shall submit to the state highway agency for approval the number of trainees to be trained in each selected classification and training program to be used. Furthermore, the contractor shall specify the starting time for training in each of the classifications. The contractor will be credited for each approved trainee employed by him on the contract work who is currently enrolled or becomes enrolled in an approved program and will be reimbursed for such trainees as provided hereinafter.

Training and upgrading of minorities and women toward journeyman status is a primary objective of this Training Special Provision. Accordingly, the contractor shall make every effort to enroll minority trainees and women (e.g. by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent that such persons are available within a reasonable area of recruitment. The contractor will be responsible for demonstrating the steps that he has taken in pursuance thereof, prior to a determination as to whether the contractor is in compliance with this Training Special Provision. This training commitment is not intended, and shall not be used to discriminate against any applicant for training, whether a member of minority group or not.

No employee shall be employed as a trainee in any classification in which he has successfully completed a training course leading to journeyman status or in which he has been employed as a journeyman. The contractor should satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used, the contractor's records should document the findings in each case.



The minimum length and type of training for each classification will be as established in the training program selected by the contractor and approved by the Idaho Transportation Department and the Federal Highway Administration. The Idaho Transportation Department and the Federal Highway Administration shall approve a program if it is reasonably calculated to meet the equal employment opportunity obligations of the contractor and to qualify the average trainee for journeyman status in the classification concerned by the end of the training period. Furthermore, apprenticeship programs registered with the US Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau and training programs approved but not necessarily sponsored by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training shall also be considered acceptable provided it is being administered in a manner consistent with the equal employment obligation of Federal-aid highway construction contracts. Approval or acceptance of a training program shall be obtained from the Idaho Transportation Department prior to commencing work on the classification covered by the program. It is the intention of these provisions that training is to be provided in the construction crafts rather than clerk-typists or secretarial-type positions. Training is permissible in lower level management positions such as office engineers, estimators, timekeepers, etc. where the training is oriented toward construction applications. Training in the laborer classification may be permitted provided that significant and meaningful training is provided and approved by the Federal Highway Administration Division office. Some off-site training is permissible as long as the training is an integral part of an approved training program and does not comprise a significant part of the overall training.

Except as otherwise noted below, the contractor will be reimbursed 80 cents per hours of training given an employee on this contract in accordance with an approved training program. As approved by the engineer, reimbursement will be made for training persons in excess of the number specified herein. This reimbursement will be made even though the contractor receives additional training program funds from other sources, provided such other source does not specifically prohibit the contractor from receiving other reimbursement. Reimbursement for off-site training indicated above may only be made to the contractor where he does one or more of the following and the trainees are concurrently employed on a Federal-aid project: contributes to the cost of the training, provides the instruction to the trainee or pays the trainee's wages during the off-site training period.

No payment shall be made to the contractor if either the failure to provide the required training, or the failure to hire the trainee as a journeyman, is caused by the contractor and evidences a lack of good faith on the part of the contractor in meeting the requirements of this Training Special Provision. It is normally expected that a trainee will begin his training on the project as soon as feasible after start of work utilizing the skill involved and remain on the project as long as training opportunities exist in his work classification or until he has completed his training program. It is not required that all trainees be on board for the entire length of the contract. A contractor will have fulfilled his responsibilities under this Training Special Provision if he has provided acceptable training to the number of training units specified. The number trained shall be determined on the basis of the total number enrolled on the contract for a significant period.

Trainees will be paid at least 60 percent of the appropriate minimum journeyman's rate specified in the contract for the first half of the training period, 75 percent for the third quarter, and 90 percent for the last quarter of the training period, unless apprentices or trainees in an approved existing program are enrolled as trainees on this project. In that case, the appropriate rates approved by the

Department of Labor or Transportation in connection with the existing program shall apply to all trainees being trained for the same classification who are covered by this Training Special Provision.

The contractor shall furnish the trainee a copy of the program he will follow in providing the training. The contractor shall provide each trainee with a certification showing the type and length of training satisfactorily completed.

The contractor will provide for the maintenance of records and furnish periodic reports, including the ITD 2776 form – Trainee Monthly Progress Record, documenting his performance under this Training Special Provision.

### **Reporting**

In addition to providing the information as to number of individuals to be trained in each classification, and submitting training programs to be used, the contractor shall: Prior to payment for training notify the Engineer of the name, address, social security number of trainee, previous training completed and certify that the trainee has never attained journeyman status in the craft specified (the Engineer will review the information submitted and approve or disapprove the trainee). No credit will be allowed for training hours prior to approval of the Engineer. The trainee will be identified on contractor payrolls.